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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
ALLEGED CONFLICT OF INTEREST  
FRIDAY, JULY 25, 1986





Mr. Chairman: We will take a look.

Mr. O'Connor: It is an easy thing, if we have the full certificate. He obviously did not make the copy. It is easy to get a copy of that.

Mr. Chairman: No problem.

Mr. Treleaven: We are dealing with what has been asked for in the past and not yet produced, not with what we might want in the future. Is that correct?

Mr. Chairman: Yes. I am trying to give you an update about where things are. As far as I know, with the exception of the couple of interjections that have been asked for this morning, by the end of the morning we should have every document that has been requested. As a matter of fact, we have one or two that I was not aware had been asked for, that members had asked for privately.

Let us proceed. Mr. O'Connor has a motion that was stood down yesterday at his request; in fact, by unanimous agreement of the committee. I would like to deal with that as the first order of business.

Mr. O'Connor: In regard to that, may I suggest we further stand that matter down until we have determined our future course of action, particularly with respect to witnesses? If we call more witnesses, we may well need counsel; if not, obviously we will not.

Mr. Chairman: The first question I would put to you, according to our agreement on how to proceed, is that at this point--yes?

Mr. Mancini: I would like to move that--

Mr. Martel: Do we serve our coffee this way?

Mr. Chairman: More cups are on the way. Thank you for the meaningful interjection.

Mr. Mancini moves that the committee commence writing its report on the Fontaine matter.

The motion is in order. I would have preferred a little discussion before we had it, but we can do it one way or the other. We have a motion to commence writing the report. This was suggested somewhat yesterday and I asked you to withhold the motion on it so that you would have at least overnight to consider it. No matter how we do this, as the steering committee suggested, we have heard the two major witnesses we called in the first week. We have heard testimony from them and gathered a substantial amount of evidence.

We are at the time when the committee must decide whether it is prepared now to proceed to write the report. Have you heard to your satisfaction the gist of the argument and are you prepared to make a decision, or is it your pleasure to proceed with further hearings and to call further witnesses and further documents?

Before we get into this, I suggest that if you want to proceed, you have had a reasonable amount of time to consider who would be called as a witness and what other documents you might want to have. As I did yesterday afternoon, I suggest that if we are to proceed from this point, it is not reasonable to



proceed by producing every document and calling every witness everybody can think of.

If, in the course of our discussions this morning, this motion carries, the matter will be dealt with. We will deal with it based on the documents we now have. If you want to extend the hearings somewhat, you will be asked, I suppose, by other members of the committee to make your case that there is a reasonable way to proceed and reasonable grounds on which to extend the hearings. Part of that would include who might be witnesses and what other documents we should see before we make a decision.

Let us proceed in that manner, and it is just as easy to proceed on Mr. Mancini's motion as any other way. Mr. Mancini, do you want to start off?

Mr. Mancini: With the indulgence of the members of the committee, I want to refer to the motion by Mr. Nixon that was passed in the House on July 2, 1986. It read, "...that the matter of René Fontaine's compliance with the conflict-of-interest guidelines be referred to the standing committee on the Legislative Assembly for review and a report to the assembly without delay."

I believe, based on that motion, we now have enough evidence to decide whether or not Mr. Fontaine did in fact comply with the conflict-of-interest guidelines.

At this time, I want to take the opportunity to refresh the minds of the committee members as to the information that was brought to us by Mr. Brandt, and I will be using Hansard as my reference. Hansard of Tuesday, July 22, 1986, the morning sitting, states as follows at the bottom of page M-2:

"1. Mr. Fontaine did not declare ownership of 17,172 shares of Golden Tiger."

Mr. Fontaine has stated before the committee that in fact he did not declare.

"2. Mr. Fontaine did not declare his wife's ownership of 10,000 shares of Golden Tiger."

Mr. Fontaine in his testimony stated that in fact he did not declare.

"3. Mr. Fontaine did not disclose ownership of 5,000 shares of Villeneuve Resources, sold February 5, 1986."

Mr. Fontaine informed the committee that he did not disclose this.

"4. Mr. Fontaine did not disclose ownership of 1,200 shares in Paladin Petroleum Corp., sold February 13, 1986."

Mr. Fontaine has told the committee that he did not disclose.

"5. Mr. Fontaine did not disclose ownership of 4,615 shares of Golden Tiger owned through United Sawmill, one of his corporations."

Mr. Chairman, we feel we agree with Mr. Fontaine's testimony that he did disclose these shareholdings by disclosing his interest in United Sawmill.

I point out to the committee that if a person owned one share of a major corporation and this major corporation owned shares in other companies, I do



not believe we would ask for a breakdown of the vertical integration of all the corporations. If Bell Canada owned shares in other companies and the individual disclosed his interest in Bell Canada, that would be enough to satisfy our requirements, knowing that Bell Canada may have other interests.

"6. Mr. Fontaine did not disclose, even in his statement of June 26, 1986, ownership of one voting share of the Le Nord newspaper in Hearst, Ontario, held through his now-defunct company, Fontaine Lumber Co. Ltd."

Mr. Fontaine--and we agree with Mr. Fontaine--has denied this, and this Le Nord newspaper share is in fact an asset of United Sawmill.

"7. Mr. Fontaine did not disclose the sum of \$50,000 owed to him by United Sawmill and René Fontaine Holdings Ltd."

Mr. Fontaine did, in fact, state that he did not disclose this.

"8. Mr. Fontaine did not disclose the sum of \$13,000 owed to him by Evolution Hearst."

Mr. Fontaine informed the committee that he did not disclose this.

Mr. Fontaine further informed this committee through his testimony that he at one time served as president of Kabu and had an interest of \$300 in this company.

Mr. Fontaine further informed the committee of his interest in Wheeler Martin International Inc. It was disclosed that 20,000 shares were held, now since sold, I believe, for a value of \$200. We were also informed by Mr. Fontaine that he never received a certificate.

10:20 a.m.

Mr. Fontaine informed the committee of his interest in 6,000 shares of Danvers and 500 shares of Kenartha. These shares have been sold for a value of \$65.

Mr. Fontaine further informed the committee of his 11 shares in Bell Canada. He informed the committee of his one share in a radio concern. I am unable to say the name in French; my apologies. He also disclosed his interest in an agricultural co-op. He disclosed one share in Les Industries Nordex, worth \$100, and his 100 shares in Le Panache at \$50.

I believe we have received from Mr. Fontaine as full a disclosure as we will ever be able to obtain. Mr. Fontaine appeared before the committee at our request in view of the motion that was passed by the House. The motion asked us to decide whether the conflict-of-interest guidelines were breached. Mr. Fontaine appeared before us and, under questioning from all members of the Legislative Assembly who sit on this committee, stated that the nondisclosure on his part was a mistake.

Looking at the guidelines, we can conclude at the moment that there was a breach and that because of his nondisclosure he did not comply. While I understand that some members may feel it is very important we hear from other witnesses, I cannot see how what these other witnesses will tell us as far as the nondisclosure is concerned and as far as the instructions given to us by the House are concerned, will change the testimony we have already heard and the information that has been given to us by Mr. Fontaine.



We were given a specific job to do. In two days of testimony at this committee, Mr. Fontaine informed us, to the best of his knowledge and as honestly as he could--many members of the committee, and unfortunately I do not have Hansard, stated that they felt Mr. Fontaine was an honest man and was informing the committee of all the matters in which he was involved. Based on the information now before us on which to make a decision as to whether René Fontaine complied with the conflict-of-interest guidelines, I see no purpose being served by calling other witnesses. That is the reason I moved my motion this morning. I hope that other members of the committee have had time to think about the matter seriously and that we can commence writing our report.

Mr. Treleaven: Apropos of Mr. Mancini's statement, he stated at the beginning that we have enough evidence to decide on Mr. Fontaine's compliance with the conflict-of-interest guidelines. I categorically say we do not have enough information. We cannot possibly make an accurate decision at this point. If the proceedings are stopped here, I will not make a decision one way or the other on anything, not on the evidence we have heard to date.

Strong questions remain as to possible breaches by Mr. Fontaine of the Business Corporations Act with regard to these nonexistent corporations and the use thereof and the use of application forms and money going out to them, and as to the possible breach of the Legislative Assembly Act by Mr. Fontaine. We need details of the uses to which these nonexistent or amalgamated corporations were put to, the ones that flowed into United Sawmill, to obtain timber licences. Questions remain as to the receipt of nearly \$250,000 flowing out in these Ontario mineral exploration program grants or tax credits to companies that Mr. Fontaine certainly had an interest in. We must hear from people who can shed light on these questions and other questions.

The abilities, negligence and capabilities of various people have been brought into question over these last two days. Those people deserve the right to have their story told before us and the world not be left with a picture of their incompetence. For that reason, we cannot stop at this point. We must have more people and documents to answer the questions that remain unanswered.

Mr. O'Connor: I would argue very strongly that our function and duty here is one of deciding much more than mere compliance or otherwise of Mr. Fontaine, as Mr. Mancini would have us believe. He did not comply. He has admitted that. That is clear. If that were all that were at issue, I would agree with Mr. Mancini. We would pack up and go home.

However, I think our duty is much more profound, much deeper than that. We must decide the degree to which he did not comply and the motivation behind it as best we can, whether it was merely a technical noncompliance or whether there was more culpability on his behalf than that.

Mr. Fontaine said it was all a big mistake. But that is the issue. Was it a mistake or was there more in his mind at the time he did not comply? We clearly lack several cogent pieces of evidence which will assist us in that deliberation.

It seems to me that a pretty fundamental principle underlying any kind of inquiry, trial, royal commission or procedure such as the one we have here in our attempt to get to the truth is that we hear both sides or all sides of a particular story or issue.

We have heard Mr. Fontaine's characterization of how these things all happened. In the course of making his comments, he called several people



liars. He has slandered the reputation of several people. I will get into the people, their names and how he did it in just a moment. For our purposes, in order to determine the truth, we have to hear from those people, to hear their side of the story. Furthermore, I think those people deserve an opportunity to clear up the discrepancies that Mr. Fontaine lays at their feet.

He portrays himself as an affable, likeable, honest, sort of stumbling northerner. He told us that God was his judge, that he was a Christian and all of that. It is a very attractive presentation. To a certain extent, all of us, including the media, including the members of the committee, were taken with his approach, were taken in to a certain extent by all of this. But if we examine closely what he said, particularly about other people, underlying much of what he said there is a tendency to lay blame, a tendency to slander other people, as I said, and to call them liars. We have to go beyond the veneer of affability and get beneath it and see whether what he is saying is the truth.

By way of direct indication of whom I am referring to, there is Paul Martin. Paul Martin, allegedly, on three or four points differs quite substantially from Mr. Fontaine. Mr. Fontaine, in his statement to us on the first day he was here, paragraph 31, refers to the comments of Mr. Martin and says, "I categorically deny that allegation." He is calling Martin a liar.

10:30 a.m.

Further, in response to questions, he went on to refer to Mr. Martin as an incompetent drunk. I think that is the only way we can characterize it. In the case of a man who has been the president of a mining corporation that does business in Quebec, holds 900 claims in Ontario, has raised substantial amounts of money, and \$1.5 million as late as last year, I wonder about his competence. Rather than simply believing Mr. Fontaine and writing him off in that respect, we should have the opportunity to judge for ourselves whether or not Mr. Martin is an incompetent drunk and a liar. I think perhaps the truth of all this lies somewhere between what Mr. Fontaine says and what Mr. Martin says and we should have that opportunity.

Second, he in effect calls Mr. Markus a liar. Mr. Markus is the Ministry of Natural Resources official who appeared before us. I will quote from what Mr. Markus said on July 21 at page 1610 of Hansard, in response to a question of mine. I asked him, "Do you do any checking on the corporate status of the company, who the personnel are, whether they have changed since the last time you dealt with them and that sort of thing?" Mr. Markus said, "We check whether--I am not a lawyer--the company is in good standing or still exists." I asked, "How do you do that?" Mr. Markus said, "We go to the companies branch every time we reissue a licence or issue a new licence." I asked: "You check to see whether they are still in existence. Do you check the records that we have just looked at as to who the directors and officers are?" He replied: "Not on the directors. We simply want to know whether it is a legal entity, because we want to issue the licence to a legal entity."

We heard Mr. Fontaine tell us that is not the case at all. He says the Ministry of Natural Resources, when issuing timber-cutting licences, encouraged or demanded that he continue using the corporate names of nonexistent companies. That is a very different version to what Mr. Markus gave. Mr. Markus should be called back, or perhaps the deputy minister should be called, to tell us what the procedure is and to find out the truth on that point.

Next, Mary Eberts. I do not know that he called Mary Eberts a liar

directly, but if one reads carefully the evidence she has given at another committee before this House--

Mr. Chairman: I am having a little problem. Let us get it on the record. I listened very carefully to the testimony. On a number of occasions now you have paraphrased, which is not unreasonable for you to do so in most circumstances. I thought Mr. Fontaine's words were chosen carefully. He did not call people drunkards. He said they had a problem with alcohol. He did not call them liars; he disagreed with the facts as they presented them. He chose his words rather carefully, and I am going to ask you to choose them rather carefully. I am reminded of course that you have privilege in the committee and nobody will sue you for slander, but it will still go on the record.

Mr. O'Connor: I am trying to cut through the verbiage and get right down to what he was saying and I think that is what he was saying. He had trouble with alcohol, his marriage was falling apart, four or five times he had to counsel him. I think he said he attempted to get him into his alcohol rehabilitation centre. What does that amount to? I ask you that. He was characterizing him in that fashion in order to explain why he is in this pickle, why the company did things and Martin said things that he does not agree with. I realize I am using very blunt words in this respect, but if you get around the verbiage, the waving of the arms and the statements Mr. Fontaine made, that is what he is saying. That is why we have to call these people.

Similarly, Mary Eberts. He tells us that neither she nor anyone else in the Premier's office advised him to sell his shares. In his statement, he says it was not until November that Mary Eberts phoned his accountant and said, "Sell the shares." I have a little trouble believing that Mary Eberts and other people in the Premier's office, including the Premier, were so stupid, so incompetent, that when they saw in July the minister of mines owned 62,000 shares in a mining company that was receiving grants, they did not say to him: "René, get rid of those shares," or, "René, put them in a blind trust. René, do something with them." Unless they are all stupid over there--and our party would love to believe that, obviously, but in frankness, I do not think they really are. I would like to hear Mary Eberts' version of all that. I doubt she waited until November to tell his accountant to get rid of those shares, but maybe she did, and if she did, let us hear from her.

Do you remember the dancing around we did with Guy Pratte, Mr. Fontaine's lawyer, about whether he had meetings with anyone in the Ministry of the Attorney General? He never did answer that question, if you want to go through Hansard on that. He did everything he could and finally instructed Mr. Fontaine not to answer the question at all. I believe that was the bottom line. What he did answer was whether he thought that was a fair question, and he said no.

I think some of us interpreted that answer to mean he did not meet with the Attorney General's department. That is not so, because we have reason to believe-- A representative, in fact the Attorney General's executive assistant, sat through the proceedings observing this. There is nothing untoward about that, but as soon as that issue was raised, he disappeared and has been replaced by someone else in the ministry. I think that is interesting in itself.

We should call Mr. Pratte and ask him a direct question about whether he met with the Attorney General. That will take five minutes. There are implications there. If they did meet and he received advice, why should a



private citizen be entitled to the high-powered and expensive advice and counsel of the Attorney General's ministry in his attempts to explain himself before this committee?

I think Blenus Wright could shed considerable light on the discussions that took place in June and July 1985, particularly on whether ministers, pending the implementation of the new guidelines, were told they were under the old guidelines and were required to comply with them. If they were not, much of what Mr. Fontaine did is fine, because there were no guidelines in effect. That may be their story. I do not know, but let us find out.

I would like to know why the guidelines were changed, in fact, softened, in September. We have agreed they are less stringent than those under the previous government. Were they changed specifically to meet the situation Mr. Fontaine found himself in, with substantial family holdings, or was it a general regulation to meet the needs of some other ministries? That is of interest to all of us.

With respect to Mr. Levesque, Fontaine's partner in Hearst Forest Management, there is much evidence around Levesque's role and what he said and his intentions and motives. I think we should hear from him with regard to the granting and operation of forest management agreements.

I do not think we are nearly to the end of this process. We are, if we accept everything Mr. Fontaine says as above-board and absolutely factual and truthful. There are too many discrepancies for me to do that yet. I may come to that conclusion eventually. As a former colleague, and I anticipate his being a colleague in the future in this House, I hope I can be generous with the man, but right now, as my friend behind me said at one point in these proceedings, I am from Missouri. Even though he is from Sudbury, he said that. That is the position I am in. I feel I must insist on hearing further witnesses.

Mr. Laughren: I have thought about this quite a bit in the last 12 hours or so. If we were simply dealing with the question of whether there has been a conflict of the guidelines, I am convinced there has been, and I could write a report along those lines. A couple of things bother me, though, and give me pause for thought about writing the report immediately.

This may sound funny, but I am not sure Mr. Fontaine has learned very much by this whole exercise, this experience. That sounds strange because of what he has been put through, but I wonder whether he has learned. For that reason, we need to pursue some of the matters a little more fully.

10:40 a.m.

For example, I am concerned about the guidelines changing. Mr. O'Connor mentioned them. I would like to have the Premier before the committee to talk about that guideline change, why they were changed and whether individuals were taken into consideration when those guidelines were changed. I believe the standing committee on public accounts in the Caplan hearing heard that there was some reason for those changes.

The questioning that was done was methodical and persistent.

Mr. Martel: Plodding.

Mr. Laughren: You might say plodding, but I think Mr. Treleaven was

simply-trying to give the appearance of a fuzzy-headed Oxford county lawyer when in fact he knew what he was doing all along to extract information from Mr. Fontaine. Where is Mr. Treleaven? I should not malign him in his absence.

When I think about some of the allegations that have been made, which Mr. O'Connor summarized very nicely this morning, I too have some concerns about the allegations. I am concerned about the meeting--if there was a meeting--between Mr. Fontaine or his lawyer and the Attorney General (Mr. Scott) and whether we got the correct information in that regard. I think that needs to be cleared up. The question of the guidelines needs to be cleared up and I suppose some of those allegations that Mr. O'Connor referred to about those people need to be cleared up.

I should apologize to you, Mr. Treleaven. I spoke of your razor-like legal mind in your absence and I should not have done that.

Mr. Treleaven: I certainly would have objected had I been here.

Mr. Laughren: Yes. You would have.

Mr. O'Connor: I am quite sure you would have.

Mr. Martel: Do you want to check Hansard?

Mr. Laughren: For those reasons, I would be prepared to oppose the motion by Mr. Mancini. Quite frankly, I do not want to be seen to cut off debate on this issue before people are satisfied that what should be done has been done and there has been every opportunity to do that. The guidelines thing bothers me a great deal and I would like to hear from the Premier in that regard.

Mr. Sterling: I am speaking against the motion as well, as you can imagine. I am doing it not only from the conflicting statements I heard from Mr. Fontaine and the earlier evidence that we had heard, as Mr. O'Connor has put forward, but also from my concern about the intent and the feeling by Mr. Fontaine and the other members of this government on how serious a problem this really is. There was a number of times when the Premier--it is in Hansard for all our eyes to see--made statements in the House that things were all right. Everything was being taken care of. He was looking into this. Everybody was squeaky clean, etc.

In January, after Mr. Fontaine was the subject of the allegation with regard to the FMAs, he made a statement that he had not taken any action since May 2, with regard to the FMA agreement. He admitted yesterday in evidence that he had gone over and talked to Mr. Harris. Now that may not be a large point in terms of whatever since he was a private member at that time, but I think perhaps it exhibits a lack of understanding by Mr. Fontaine on what is a conflict of interest and what a minister can or cannot do before he crosses that line.

I remind all members of the committee that in his initial statement in January, Mr. Fontaine named seven corporations in which he had an interest. When he resigned in June, he admitted he had an interest in four more corporations and other matters as well as interests in corporations. When he appeared in front of this committee, he admitted he had interests in five other corporations. We now have the situation where after his statement was filed, more has been revealed after the statement than was revealed in the statement, if you want to use just pure numbers. That is not fair because some



of the shareholdings were pretty small, but again in my view it indicates the attitude of Mr. Fontaine and this government towards the whole idea of conflict of interest and how important it is to create the perception out there that the ministers are dealing in good faith and are revealing for the public record what they have an interest in.

I guess the other thing that really concerns me is the change in the guidelines. It was a significant change in those guidelines. I hope the members of the committee understand the significant change. That was the only change in those guidelines from the previous government. It appears very much as though they were changed in order to accommodate Mr. Fontaine. It is pretty hard not to draw that conclusion.

I think it is incumbent on the committee in order to answer the allegations that Mr. Fontaine has put forward in terms of what other people have said, and the situation, but it is also important to draw out the full story of the extent of the conflict and the intent of Mr. Fontaine in what he did and how seriously he has treated this particular breach of the conflict.

Mr. Martel: I quit writing down points quite some time ago and almost all of them have been mentioned. I think Mr. Fontaine's confession still does not answer all of the issues. I do not think we want the appearance that we are out to persecute Mr. Fontaine. I do think that is anyone's intention.

There is one thing that really bothers me, and I pursued it briefly when the lawyer for Mr. Fontaine refused to answer a question. He was answering glibly up until that time, or carefully, I am not sure which, but too quickly. When the question was put, "Did you talk to the Attorney General or someone else?" he refused to answer the question, although I think he had intimated that someone else had been spoken to and he would not say yes or no. That is the point when I said to my friend that I was from Missouri. Quite frankly, I just did not believe him.

That has implications. Those of us who have been around a long time and who have had a whole variety of Attorneys General over the years, know that when we have written about a problem of a constituent, they always write back and say, "Sorry. We cannot get involved. That is a private citizen problem." It would be appear there are classes, if that is the case, of private citizens who have access and others who do not. I think we have to look at that and how it fits into this.

The thing that worries me more than anything, however, is the effort by the Premier, and maybe he was being misled. I do not know, but his statements have been pretty straightforward and frank about the cleanliness and thoroughness of the investigation that had been done in January and previous to that, even down into June. I think the Premier has to look into his staff to see if somebody was setting him up, because his statements are pretty categorical. If what we heard is to be believed, then someone he had advised to go back and check these matters did not check very carefully.

That really bothers me because when you are in his position, you cannot afford to be set up in that fashion when you get up in the House. I would be naïve, as I thought some people were earlier in these hearings, if we could pretend we did not have biases, but all of us would want to protect a colleague, depending on where you sit in the House. Anyone who says, "We would not do that," is either a liar or mad.

10:50 a.m.

I would think the Premier was set up by someone on his staff not verifying everything. If I had been in that position, I would have wanted to know precisely what was going on with Mr. Fontaine's holdings and I would not have got up in the Legislature and made squeaky-clean statements. The Premier (Mr. Peterson) has to be given an opportunity to respond to that because it leaves him in a bad light.

One of the people I do not want to hear from is Mr. Levesque. I think Mr. Levesque is irrelevant to the whole issue. If you want to deal with the forest management agreement, that is one thing, but the composition and how they are going to co-operate or not co-operate is really irrelevant to this issue. As to whether the FMA was broached beyond speaking to Mr. Harris, that is something else if one were trying to use influence; I do not know. That is one of the things I said will be a great mystery when we are finished with all this because we are not going to get cabinet documents on it.

That is where the conflict would lie, not in how Mr. Levesque was going to co-operate with his two partners. I suspect that has nothing to do with it. How one goes about getting the FMA would be very important if influence were used, but I suspect it is never going to be for us to know what went on inside. I am sure the people from the previous government are prepared to admit that what went on in cabinet will never see the light of day here, no more than it would have under the previous administration.

Finally, I conclude there were a few people, including Mr. Gagné, who were left to appear as being totally incompetent. I guess Mr. Gagné is Mr. Fontaine's accountant. He was left looking like a real hick, a total incompetent who could not advise Mr. Fontaine over a prolonged period of time as to whether he should dispose of his assets. We are not talking about June 24 to June 26 or any silly time such as that; we are talking about 10 or 11 months in total. I do not know how Mr. Gagné can stay in business if he is that incompetent, unless he could not get a handle on what the former minister owned either. When you look at the total value of what he owned, it was not worth a hell of a lot.

There are some people who need an opportunity to clear their names. The innocence that was portrayed, the simplicity of it, left other people looking incompetent. We have to be careful if we pursue it. I do not think we want an inquisition. If we proceed, we have to be very selective as to who we call in. I do not think it has to be a large number or else it will run for the next two months. We have to give a few people who have been maligned the opportunity to clear their names about being totally incompetent. In the case of the Premier, he appears to have made statements that, after listening to the former minister, make him appear in a bad light as well.

While I was not committed one way or the other earlier, having thought about it last evening, I am afraid I would be hard pressed to vote to proceed at this time, even though my feeling is that Mr. Fontaine failed to report in terms of the guidelines and therefore has a serious problem.

Mr. Villeneuve: I would like to add a few words from a nonlegal, fuzzy or otherwise mind. A deep, dark shadow has been cast on the Premier, his office and his transition team. It should not be left without looking into it further. Likewise for Golden Tiger; if I were a shareholder in Golden Tiger, I would be phoning my broker this morning. I do not think we should allow that to go without seeing the other side of that instance, where Mr. Fontaine has



led this committee to believe that the management of that public company is in not very good hands. The same is true of the Ministry of Natural Resources, timber rights and forest management agreements. If we were to leave this thing go without further looking into it, I would not want to hear the New Democratic Party talk about the FMAs and all of the headaches that they apparently create or bring about.

The insinuation here is that FMAs are valueless. I personally tried to get the witness yesterday to explain after a number of other attempts had been made, and he would almost make one believe that an FMA is a liability, regardless of the seemingly heavy demand they are under. That must be looked into, as must the timber rights for nonexistent companies. There is a very definite and very grave difference of opinion there.

Mr. Martel: You have to call in Alan Pope for that.

Mr. Villeneuve: We will call in whomever this committee feels should be here.

Those are my remarks. I gather, Mr. Chairman, that you appreciate I am speaking against the motion that is on the floor.

Mr. Chairman: Is there any further discussion on the motion? Perhaps I can let Mr. Mancini conclude then.

Mr. Mancini: While my initial view that the committee was ordered to decide whether or not there was compliance has not changed and while the fact is we do know this morning the answer to that question, I will not take the opportunity at this time to rebut many of the things that have been said, particularly many of the things that have been said by Mr. O'Connor, where he has pretty well called Mr. Fontaine a liar, which disturbs me greatly--

Mr. Chairman: I hear the objection already.

Mr. Mancini: --since members, I believe, from all parties have stated that they held high regard for Mr. Fontaine and, I guess, at one point thought he was telling the truth.

It is not going to be our intention to filibuster this motion this morning. I can count. I see that there is a majority of the members of the committee who do not feel satisfied and wish to obtain further documentation and hear further evidence.

In view of the fact that the majority of committee members feel this way, we are prepared to withdraw the motion and continue on. I believe that the information we will be gathering in the future will really not change the information that we have already received and will not change the decision that we probably could make today. It is not our intention to get into a long debate this morning as to whether we should continue. I accept that the majority of this committee wishes to hear further evidence, and we are prepared to co-operate.

Mr. Chairman: I take it that, as usual after a long debate, we have withdrawn the motion. Mr. O'Connor has a point.

Mr. O'Connor: There is a short point I feel I must respond to, and I think Hansard will bear me out. I did not call Mr. Fontaine a liar. I indicated that his evidence brought into question the veracity of others. Is that more delicate than calling--

Mr. Chairman: I think this is called tit for tat, Mr. O'Connor. He did what you did.

Mr. O'Connor: All we want to do is hear from the others to determine who is telling the truth. It may well be he is absolutely correct on everything he said, but then I am from Missouri.

Mr. Mancini: You stated that we were "taken in by Mr. Fontaine." Those were your direct quotes.

Mr. Chairman: That is the point where I began to be a little bit concerned. There is this funny old tradition about imputing motives, but I think we have resolved that.

11 a.m.

Before we proceed, I appreciate that you can interpret the motion that was put to the assembly in a variety of ways. On the strictest interpretation of the motion, one would say only matters having to do with compliance with the conflict-of-interest guidelines are before the committee. I have pointed out in our earlier discussions on the matter that it seems to me that a reasonable interpretation of the motion would say that the conflict-of-interest guidelines are properly before the committee. He was a member of the assembly at that time. Therefore, it is a reasonable assumption to make that the provisions of the Legislative Assembly Act also apply in this circumstance.

We would have to be prepared to hear arguments that the Executive Council Act is before us. If you push, though, I would be forced to put some rulings in place which say that other acts are not before us. In other words, we are not here to discuss and make rulings on whether business practices or something under the Business Corporations Act happened and we should report on that. That is not our business. That seems fairly clear to me.

If you are here to conduct an investigation into how licences were let by ministry staff under some other act, I really find that quite a stretch. In the calling of witnesses and asking for documents, I make a plea to you, for starters, that you try to keep within the confines of the conflict-of-interest guidelines and the Legislative Assembly Act--and I will listen to you on the Executive Council Act--and that you not go beyond that. I am putting down the treaty limits to the fishing licence here. That is not an unreasonable request to make. I am not saying you cannot ask questions about it.

Before we get into this, I want to reiterate, as I did yesterday afternoon, that on previous occasions this committee has tabled reports with the Legislature on the status of witnesses. Therefore, I am simply going to point out to you for now that we did consider the problems that are encountered when you call senior civil servants as witnesses before a committee. There is a conflict there.

Our recommendation was that if a committee of the assembly wants them to appear as witnesses, we can call them, but we also did clearly recognize that there is a conflict and there are limits to which you can push your questions. They have taken an oath to hold some matters secret and you put them in a conflict that is just untenable. You may ask them questions, which, if they answer, they simply lose their jobs. That is a caution before you.

A second one you may consider is that not everyone who has been named in



these proceedings is a resident of Ontario. We do have the authority to issue Speaker's warrants. We have been using the technique of inviting people. The status of a Speaker's warrant in another jurisdiction, such as the province of Quebec, has not really been resolved. If you want to do that, we can go through that exercise, but I suspect it may take us seven or eight years to get that witness in front of us. For practical purposes, if you want to hear a witness in August, and that witness is a resident of Quebec and he does not want to appear, we will give it a shot if you want, but it is highly unlikely that person is going to sit in front of you in August and answer your questions.

In my view, the next process would be that the committee has to determine which witnesses it would like to hear. Before we start that, I remind you that on motion of the House, the committee schedule has been set for the summer session. I believe we have authority to sit in the week starting August 11. There happens to be an election during that week and an election day. That may enter into your considerations. We have authority to sit during the week of August 18. I do not have the schedule with me, but as I recall, it then begins again in September and I believe we have the first three weeks of September.

As the committee decided previously, this is the predominant order of business for this committee. We will deal with this matter until it is dealt with and then proceed to several other items that are on our agenda. I have no problem with saying we will clear the decks and deal with this matter until it is finished, but we have permission to sit only during those particular weeks. Those are the restrictions I can think of on what we do from here.

Mr. Mancini: I understand that we cannot return to this order of business until August 11?

Mr. Chairman: Yes.

Mr. Mancini: May I suggest that we work on this particular matter until we are finished? I get a little nervous when you say September. I have long-standing arrangements for September that cannot be changed. We commenced our hearings a week later than we could have started because Mr. O'Connor and Mr. Treleaven had made some personal arrangements that made them unavailable. I hope the same courtesy will be extended to the other members. We have been asked to deal with this matter without delay.

Mr. Chairman: That seems reasonable. I was just trying to point out that there was a motion in Orders and Notices that says when the committees can sit. I am trying to tell you when we have authority to sit this summer.

Mr. Treleaven: If you look at Mr. Nixon's resolution, there is an escape hatch. It says that by agreement, the House leaders can agree to extend sittings or have other dates beyond those you have mentioned.

Mr. Chairman: That is true, but we cannot deny the practical problem that other committees are functioning and there are only so many bodies to go around. In my view, for practical purposes, if you want to extend into the following week for a day or two or something like that, that is conceivable, but if you think you are going to come back on August 11 and go straight through for five more weeks, the House leaders are not going to agree. We do not have the bodies.

Mr. Treleaven: I was just pointing out that there is a bit of a

safety-valve. The other thing is that you said we must restrict ourselves or that you do not think it is relevant as to whether with the Business Corporations Act, the law has been broken. Surely, if we work out here that someone, Mr. Fontaine or otherwise, has been using nonexistent corporations, we cannot close our eyes totally to the law of Ontario.

Mr. Chairman: I have not asked you to close your eyes. I have asked you to be cognizant of the fact that this is not a commission to delve into every wrongdoing that has ever happened. There are some restrictions on us. I tried to lay out the restrictions for you. In other words, if you want to move a motion to call a witness about somebody granting a licence improperly and the somebody in question is clearly not René Fontaine, I am going to have some difficulty recognizing that as legitimate business of this committee.

Mr. Treleaven: That is fair enough, but if from what comes by us, we think there is a possibility or probability of the law having been broken, do you not think it is our business at least to flag it by putting in a report for the minister, his officials or whomever else that there is something wrong with their procedures?

Mr. Mancini: Send a letter.

Mr. Chairman: That may be true and you are free to do that, but I do not consider that to be the business of the committee.

Mr. O'Connor: On that point, Mr. Chairman, I agree with you entirely. It is none of our business. It is not within our mandate and we should not be looking into it. The only purpose I can see in calling, for instance, Mr. Markus or the deputy minister in that ministry is because of the conflict of his evidence and Mr. Fontaine's evidence and because of our underlying mandate to get to the truth of the matters before us, to determine veracity, to determine who is telling the truth. There are conflicting statements. I think you have to call both people and cross-examine them to see who is telling the truth.

Mr. Chairman: If I were hiring a lawyer, I would hire you over Treleaven. I will give you that much.

Mr. Treleaven: You would make a good decision.

Mr. O'Connor: Let us talk retainer.

Mr. Martel: I find the whole thing about corporations strange, about whether a company that was defunct was still getting licensed. It is a pile of baloney. If you want to know whether that is practised, why do you not pick up the phone and phone over and see whether it has been going on for the past 10 years? You can have your fishing net out if you want, but surely that is a relatively simple matter. We might have to disbar from the committee my friend to my left, because he used to be a minister involved, and ask him whether he ever agreed to any of those practices in the past.

Mr. Mancini: Norm was in charge.

Mr. Martel: I think the list is quite short. There are some people I am not prepared to call. Perhaps we will have to go through it vote by vote, but I hope we can reach a consensus as to who we are going to see. If you think we are going to have to go through this document name by name and vote some out and vote some in, fine, I am prepared to do that. I hope we will not



have to do it. The list is not really that long. The principals appear to be, give or take one or two, Martin, Gagné the accountant, Peterson, the solicitor for Mr. Fontaine--I forget his name--Eberts, Wright and perhaps one person from the Ministry of Natural Resources.

11:10 a.m.

Beyond that, when people start talking about two, three or four weeks, it is insanity. You can do a lot of fishing with those six or seven names if that is what you are after. It covers the people involved in the real issue before us, gives an opportunity to people to clear their names and at the same time deals with people who have some involvement in or knowledge of the whole issue. As to a list much beyond that, and I am hoping we can reach a consensus, I do not see much--

Mr. Mancini: Will you please repeat your list?

Mr. Martel: It is Mr. Martin, Mr. Gagné, Mr. Peterson, Mr. Fontaine's lawyer, Ms. Eberts, Blenus Wright and perhaps someone from the Ministry of Natural Resources. As I said earlier, someone might want to pick up the phone today and phone MNR to find out what its policy has been for the past 10 years as to unlicensed companies getting--

Mr. Mancini: That was going to be my question to you.

Mr. Martel: The lawyer who sat with--

Interjection.

Mr. Martel: No, the young lawyer who was here with him the other day.

Mr. Mancini: My question to you about MNR was going to be, do you feel it is absolutely necessary to have someone from MNR?

Mr. Treleaven: The fellow who sat on the right, Mr. Markus.

Mr. Martel: That might be the only one. Beyond that, you are really stretching it.

Mr. Treleaven: What about Bourgeault? If I do not have the right name, it is the lawyer in Kapuskasing. His competence was certainly questioned, was attacked.

Mr. Martel: What do you expect to get from Bourgeault?

Mr. Treleaven: To find out whether the instructions were as we have been told and whether his procrastination was such as has been portrayed here.

Mr. Laughren: If you start questioning the competence of lawyers, where do you stop?

Mr. Chairman: Of the list Mr. Martel has suggested as a starting list, by means of invitation I can see only a couple of areas where we will have problems. To facilitate the business here, I will go through the list in a minute and try to point out what I see as problem areas.

My knowledge of Mr. Martin is extremely limited. I understand he is a resident of Quebec. I anticipate we can invite him to appear and if he decides

of his-own volition, he can do so. If he says no, we will have to seek a Speaker's warrant and we will be into a long, legal argument as to whether we can properly do so. It is the committee's decision as to how we proceed. As I have indicated, we have been nothing but straight in inviting witness to attend. It is my intention to proceed in that way until we encounter a problem.

It will be difficult to reconvene the committee in the interim period. When we sit again, we will provide to you the names of the people who have declined to attend and you will make the decision as to whether to seek a Speaker's warrant. How will that be? Is that a reasonable way to proceed? We will simply invite them and if there is a problem, at our first meeting we will inform you of who has declined to attend and you will make the decision as to whether to seek a Speaker's warrant.

Will you help me to identify these people as I go through them? The first witness you have asked for is Paul Martin. I believe we all understand that. André Gagné; he is--

Mr. O'Connor: He is a chartered accountant.

Mr. Martel: He is the chartered accountant from Hearst.

Mr. Chairman: He is the accountant from Hearst.

Mr. Mancini: Is Mr. Gagné on Mr. Martel's list?

Mr. Chairman: This is Mr. Martel's list. Let me go through it and see what we have. Do I have a consensus that Paul Martin will be invited? Is that agreeable?

Agreed to.

Mr. Chairman: If there are objections, let me hear them now. André Gagné.

Agreed to.

Mr. Chairman: Is the Peterson you referred to David Peterson?

Mr. Mancini: Or a representative from his office.

Mr. Chairman: The invitation will go to Mr. Peterson. If he chooses to delegate it to someone else, we will have to accept that, although I am mindful that he accepted an invitation to appear before another committee.

Mr. Mancini: I would like clarification. Is it Mr. Peterson or a representative from his office?

Mr. Treleaven: The Premier.

Mr. Chairman: The invitation goes to the Premier and the Premier responds. It is as simple as that.

Mr. Mancini: I want to be sure what we are doing. You told us you will make up a list of people who may decline to appear before the committee.



Mr. Chairman: If there is a big problem, I will report it to the committee at the first occasion.

Mr. Mancini: It would be better to know now whether the committee is prepared to listen to Mr. Peterson and/or a representative of his office.

Mr. Martel: Let Mr. Peterson decide whether he wants to come. If he decides not to, we can deal with it then.

Mr. Chairman: It is his decision.

Mr. Martel: The office is in this building.

Mr. Chairman: The next person I want to caution you about at this point is that I understand you want to ask Guy Pratte to attend. I have an anticipated problem here. He is the solicitor for Mr. Fontaine. During the committee hearing, he attempted somewhat to co-operate with us. I will be happy to invite him, but if I were him I would tell this committee, "Take a leap, he is my client," and then we would be into a long procedural problem as to whether it is reasonable for a committee of the Legislature to intervene between a lawyer and his client.

Several of you are lawyers and you will advise me on how this would happen. I will be happy to invite him; I have no problem with it. I am just trying to point out that it is a little unlikely that he is going to want to come here and testify in that manner.

Mr. O'Connor: Before Ms. Hart raises solicitor-client privileges, as I am sure she will, another way around it is Mr. Lukasiewicz. He is the executive assistant to the Attorney General (Mr. Scott) and attended the hearings for the first three days until the matter was raised and did not thereafter. I am sure he would have knowledge of that matter or could apprise himself of it. Perhaps we could call him.

Mr. Mancini: I do not see any need to call Mr. Lukasiewicz. He has never been--

Mr. O'Connor: We are trying to--

Mr. Mancini: Excuse me, Mr. O'Connor. You have based part of your case on calling a certain list of people because they were mentioned in the report or in our minutes by Mr. Fontaine. Now all of a sudden that has changed.

Mr. O'Connor: Yes, on that one issue. It certainly has changed.

Mr. Martel: I did not include him. I prefer that we take a shot at Mr. Fontaine's lawyer. Mr. Fontaine's lawyer might say, "No, it is solicitor-client privilege." I think that is a lot of nonsense. Anything that goes on between him and Mr. Fontaine is one thing, but his lawyer talking to somebody in the Ministry of the Attorney General is quite something else. He might plead that, but I think we should give him the opportunity to come here. I want to give him that and if he does not come we will give him a Speaker's warrant.

Ms. Hart: Mr. Chairman, I have been on this list.

Mr. Chairman: You have just been recognized.

Ms. Hart: I want to speak to this matter of solicitor-client privilege. Personally, I had a visceral reaction when Guy Pratte was asked to discuss matters that were obviously to do with his giving advice to his client. Mr. Martel may not be familiar with this on a day-to-day basis, but I know every journalist in the room is.

It is the same as protecting your sources. It is not a question of hiding something. It is one of the oldest privileges under our law. The reason for it, and perhaps I can tell it to you, Mr. Martel, is so that people can receive legal advice and so the system will know that the lawyer has all the information from the client and that nothing will be hidden, because the client knows the lawyer cannot divulge the information under this very ancient privilege. It is not a question of being hidden; it is a question of our whole system of law being based on it.

Mr. Martel: That is not the issue that erupted yesterday.

Ms. Hart: Let me finish, Mr. Martel; I have not finished.

Mr. Chairman: I have a list and I would like a chance to use it.

Ms. Hart: If we are just concerned about whether Mr. Pratte met with members of the Ministry of the Attorney General with a view to doing something other than gaining information to advise his client, then perhaps he will advise us by letter. If we put him on the hot seat here, we can ask him any question imaginable dealing with his advice to his client. Frankly, I think that goes beyond the bounds of fairness.

Another matter I want to deal with is the matter of Mr. Markus. If my recollection serves me, Mr. Fontaine did not say that Mr. Markus was a liar. Mr. Fontaine was asked about a specific company, his own company. It started with Polar Lumber Co. Ltd. Mr. Markus was not even advising us about Mr. Fontaine's family companies. He was talking about general policy. The question about that specific company was not even put to Mr. Markus. In my respectful submission to the committee, it has absolutely nothing to do with what we are here to inquire into.

11:20 a.m.

Mr. Martel: Can I respond to the last point?

Mr. Chairman: Let us take the list in order.

Mr. Sterling: There is a solicitor-client relationship between them but it depends on whether he is acting for his client at the time, etc. However, the solicitor-client privilege is always available to the client and the client can instruct his solicitor to answer questions relating to negotiations or whatever with the Attorney General. It is entirely up to Mr. Fontaine to make that decision, and when we ask Mr. Pratte to appear before the committee for him to receive specific instructions from Mr. Fontaine on it. If we cannot get the answers from them, we might ask Mr. Fontaine to come back with Mr. Pratte so he can give him the instructions at that time.

Mr. Martel: I have two points. On the latter point Mr. Sterling has made, there is not much sense asking Mr. Fontaine. He indicated he did not know whether Mr. Pratte had met with the Attorney General.



Mr. Sterling: Or his staff.

Mr. Martel: Or his staff. He said no. The burden--the whole piece who seemed to give himself away was Mr. Pratte in an unsolicited fashion when he jumped into the fray. No one asked him specifically until his refusal to answer when he was answering on behalf of Mr. Fontaine. If anyone goofed, it was those razor-like solicitors my colleague the member for Nickel Belt (Mr. Laughren) always talks about.

On the second point, the only reason I want a person from the Ministry of Natural Resources--

Mr. Chairman: Can you stop there and let us deal with this one now and then we will proceed to the other one? I see some disagreement in the committee on whether Mr. Pratte should be invited as a witness. The only option we have is to invite him to appear. When he appears, should he choose to invoke solicitor-client privilege, our only option will be to report to the House that this is what he did. If you want to engage in the exercise, we can do it. This may be a witness who will want to have a Speaker's warrant used to get him in front of the committee, although I must say, while he was before us he spoke rather freely and openly and answered questions even when they were not asked of him.

Mr. Martel: That is what got him in trouble.

Mr. Chairman: We have that quandary. It appears to me we are at a point where I do not see a ready consensus and that means I will have to put the name to a vote. Is that a reasonable way to proceed?

All those who wish to have Guy Pratte appear as a witness before the committee, please indicate. All those opposed? The chair votes in the negative. There is no question about it. He does not appear.

I take it the next one on the list is Mary Eberts. Is there any question of that witness appearing? Are we in agreement that she will be invited to attend.

Agreed to.

We will have a bit of a problem with the next two. To my knowledge Blenus Wright has been quite straightforward in appearing before other committees. Are we in agreement that he will be asked to appear as a witness?

Ms. Hart: Mr. Fontaine said he had never met Mr. Wright and I wonder why his testimony bears on this.

Mr. Chairman: Mr. Wright is the one who has done a great deal of the corresponding around the conflict-of-interest guidelines. I assume that is why members want him to appear. He was very much part of the process that designed the new guidelines for the cabinet. For example, he wrote the letters to Mr. Peterson and it is in that capacity the committee wishes to hear him.

Ms. Hart: I suggest we get the transcripts for the standing committee on public accounts, where he was asked and freely answered all those questions, rather than waste further time.

Mr. Chairman: It is up to the committee.

Mr. Treleaven: I believe it was during the first day of Mr. Fontaine's testimony when in a rather emotional moment he said he had never heard of Blenus Wright, yet within 10 or 15 minutes he referred to the letter from Blenus Wright. Since Blenus Wright and his letter and instructions are central to this whole thing, we have to insist that he come in front of us. We cannot take a second-hand approach and read what he said in the Caplan matter with regard to another minister.

Mr. Chairman: I take it it would be good form for us to read the transcript from the public accounts committee where he testified, but I hear the committee saying it wants him to appear here as a witness.

Ms. Hart: In the interest of fairness, in looking at that transcript, can we have a ruling from you that the same questions will not be asked again? Surely the man should not be asked the same questions again.

Mr. Chairman: I can ask people not to do that, but the chair really has no control over what questions people ask. The best I can do for you is that I can make the odd foray into trying to get people to be a bit relevant. That is tough enough without having me try to control exactly what they ask. They may want to ask virtually the same questions in regard to Mr. Fontaine as were asked in another committee about Ms. Caplan. As much as common sense can prevail, we can put that to them, but it would be an impossible position to say you cannot ask the same questions here about Mr. Fontaine as somebody else asked upstairs about Ms. Caplan. That is my problem.

Mr. Mancini: I still do not think we need Mr. Wright. Mr. Fontaine's testimony from the two days of questioning was that he had very little to do with--

Mr. Chairman: Am I at a point where I need the vote again?

Those in favour of having Blenus Wright appear? Those opposed?

Motion agreed to.

Mr. Chairman: Mr. Wright will be invited to appear.

The last name on the list--

Mr. Martel: Can I speak to that?

Mr. Chairman: If you will let me get it on the floor, you can. Mr. Markus has been suggested by Mr. Martel. I will let you have the first crack at it.

Mr. Martel: Once again, I would not want him to appear as a witness. He should appear as he did before to brief us on policy. We had him in on forest management agreements, and so that we do not put him in an invidious position, the only thing he should be here for is to indicate what the policy is with respect to licences and people who hold licences and whether the practice has been simply to grant those licences, even for a defunct company. We would not be cross-examining him in any way, shape or form. We simply want to know what the policy has been for the past 10 years. Consequently, I see him coming before us again, but in a vastly different light than someone who can be cross-examined. It is more for advice and knowledge of what was going on within the ministry over the past 10 years in terms of licences and so on.



Mr. Chairman: Are you saying you would like to have--

Mr. Martel: A briefing session.

Mr. Chairman: --a briefing session? Would you like the committee research officer to write to him and take a written explanation? Is that good enough?

Mr. Treleaven: No.

Mr. Mancini: That is good enough.

Mr. Treleaven: No. There are a lot of questions on the procedures with regard to these licences, who applied and what the procedures are.

Mr. Martel: That has nothing to do with conflict of interest. It has to do with politics.

Mr. Treleaven: It most certainly does. Who--

Mr. Martel: Why did you not crush it in 1981?

Mr. Treleaven: In 1981?

Mr. Martel: Yes, when your government was doing it.

Mr. Treleaven: Oh, come on.

Mr. Chairman: I may be wrong in this, but I sense a bit of dissension here. I do not have the consensus I usually have. The suggestion has been made by Mr. Martel that we correspond with Mr. Markus and ask him to clarify the situation on the licences. Those who are in support of that suggestion, please indicate.

Mr. Treleaven: Again, what is the question?

Mr. Laughren: I think you had better put that again.

Mr. Treleaven: Yes.

Mr. Chairman: The suggestion has been made by Mr. Martel that we correspond with Mr. Markus and ask him to clarify--

Mr. Laughren: And not appear.

Mr. Chairman: --and not appear.

Mr. Villeneuve: Why do we not want to ask him to appear?

Mr. Chairman: I can only repeat what Mr. Martel has suggested.

Mr. Martel: You are the one who suggested we might do it by correspondence.

Mr. Martel: I suggested we have him here for a briefing session, if you recall; just a briefing session.

Mr. Chairman: When you start doing this number on me, the chair is

going to ask you to put your motions in writing. I am now being told that you want a briefing session with Mr. Markus.

Mr. Martel: That is what I said originally.

Mr. Chairman: The motion is for a briefing session with Mr. Markus. Those in favour of that? Those opposed?

Motion negatived.

Interjection: Why is that?

Mr. Chairman: The chair votes in the negative. When you give me an even vote, you cannot carry it on the chair's vote.

Are there other witnesses you would like to have invited to appear?

11:30 a.m.

Mr. Treleaven: Yes. First, a motion that we have Mr. Markus here as a witness.

Mr. Mancini: We have just gone through that.

Mr. Treleaven: No, that was a briefing session. Floyd and I--what is wrong?--are on the same wave length.

Mr. Chairman: Mr. Treleaven has moved that Mr. Markus be invited to appear as a witness. Is there any debate on the motion? Those in favour? Those opposed?

Motion negatived.

Mr. Chairman: Are there any further witnesses you wish to have?

Mr. O'Connor: There is one other area where I think we need some more information. As a result of the letter of July 4 from the Ministry of Northern Development and Mines regarding the Ontario mineral exploration program, I for one would like some further explanation as to how that program works, who delegates and assigns the responsibility to the director of the program and whether that is in writing. As I understand it, under the previous government, the minister designated who would control the distribution of those grants and the minister signed the grants when they were made. I think somebody could brief us. It would be of considerable assistance if perhaps the director of that section or the deputy minister could brief us.

I just want to point out that this really goes to the heart of what we are doing. I do not think there is any question now that Mr. Fontaine's companies received OMEP grants. We could have argued, and we did in the timber licence situation, that the only relevance there was on the question of credibility because one official said something and Mr. Fontaine said something else.

I agree there was not anything relating to the conflict-of-interest guidelines in the timber licence discussion, except the credibility of the witnesses, but here we are getting right to the question of conflicts of interest. Grants were made and we know that. I would very much like to know the process that makes those grants and whether the minister had any knowledge



or direct or indirect control over the granting of them. Somebody to brief us on that would be of assistance. I suggest the Deputy Minister of Northern Development and Mines--not as a witness but just to brief us.

Mr. Chairman: I am looking through the letter from Mr. Stepinac, which is in writing precisely what you are asking for, in effect. If you want more than that, please say so.

Mr. O'Connor: Yes, I do want more than that.

Mr. Chairman: Tell me who you want to come to brief the committee.

Mr. O'Connor: The deputy minister.

Mr. Chairman: You want the deputy minister, who is?

Mr. O'Connor: I do not know.

Mr. Chairman: You want George Tough, Deputy Minister of Northern Development and Mines.

Mr. O'Connor: You will admit, Mr. Chairman, that is a very brief letter. It says some things which were not the practice under the old government. I would just like to explore with him how it is set up and who does it. We are talking about \$12-million worth of grants here. It is a fairly substantial program under that ministry.

Mr. Chairman: I have a request from a member for a briefing session with the Deputy Minister of Northern Development and Mines, George Tough, on the matter of how the Ontario mineral exploration program functions. Is that it?

Mr. O'Connor: That is correct.

Mr. Mancini: I just want to remind the committee that we are here on a motion passed by the House to review the matter of Mr. Fontaine and compliance with the conflict-of-interest guidelines and disclosures, but we are not here to listen to every policy initiative taken by previous governments. We could be here until Doomsday if that is what we want to do.

Mr. Chairman: I have had a request from a member of the committee to have a--

Mr. Mancini: We may want to call Mr. Pope and ask him--

Mr. Chairman: Fine. Hold on. I sense some dissention about that. I am going to put it to you again. Would those who wish to have a briefing by the Deputy Minister of Northern Development and Mines on the administration of the Ontario mineral exploration program, please indicate? Those who are opposed? That carries.

Mr. Treleaven: Mr. Chairman, may I make a motion that we have appear before us as witnesses, Mr. Markus and Mr. Tom--and I do not have his long name--who briefed us with Mr. Markus; that the two of them together come before us as witnesses?

Mr. Mancini: We have already voted on that.

Mr. Treleaven: No, we have not. We voted on Mr. Markus by himself. My motion is that the two men come together.

Mr. Chairman: I would rule that the motion to have Mr. Markus appear as a witness is out of order. You may move a motion to have the other gentleman, but I would ask you to identify him.

Mr. Treleaven: I believe the motion that the two men come together will carry. It is Tom--can you help me out? I do not like challenging your ruling, Mr. Chairman, but one person and two people in motions are quite different.

Mr. Chairman: Mr. Tworzyanski is the gentleman.

Mr. Sterling: Mr. Tworzyanski, the forest management agreement co-ordinator?

Mr. Chairman: Yes. He is the man who did most of the leading off.

Mr. Treleaven: You have made a ruling that I cannot include the two of them together, Mr. Chairman?

Mr. Chairman: That is right.

Mr. Treleaven: Will you reconsider that, the two of them together?

Mr. Chairman: No.

Mr. Treleaven: The motion is different.

Mr. Chairman: I understand what you are arguing. I am saying it is not.

Mr. Treleaven: I move that Tom Tworzyanski--you spell it, Mr. Chairman--appear before us as a witness.

Mr. Chairman: If you get any smarter, I will ask you to actually sit down and write out a motion for a change, as a good lawyer would.

Mr. Treleaven: I have heard the member for Port Arthur (Mr. Foulds) on that subject in the House.

Mr. Chairman: That is the only reason you do not have to write it out.

The motion is that Mr. Tworzyanski be asked to appear as a witness. Those in favour of the motion? Those opposed to the motion?

Motion agreed to.

Mr. Mancini: Can you spell the gentleman's name, Mr. Chairman?

Mr. Martel: He has a handle about that long.

Mr. Mancini: We should know whom we are calling.

Mr. Sterling: T-W-O-R-Z-Y-A-N-S-K-I.



Mr. Chairman: Are there further witnesses that you wish to have appear?

Mr. Treleaven: Have we discussed Mr. Bourgeault? I do not know the pronunciation, but I probably can spell it. He is the solicitor whose procrastination, speed level and competence has been questioned in a very negative sense. Like Mr. Gagné, he should be here to defend himself.

Mr. Chairman: Do we have a first name for this gentleman?

Mr. Treleaven: I had written down Michael Bourgeault.

Mr. Chairman: Can anyone assist Mr. Treleaven in identifying this gentleman?

Mr. Treleaven: His testimony was very early in the piece, in Mr. Fontaine's testimony when he was describing--

Mr. Chairman: "Michael Bourgeault, the Kapuskasing lawyer who had set up my blind trust...." Is that the gentleman you want?

Mr. Treleaven: Yes.

Mr. Chairman: Mr. Treleaven has moved that we call Michael Bourgeault as a witness. Are we in agreement with that? I have a division. Those who are in favour of calling Mr. Bourgeault? Those who are opposed?

Motion agreed to.

11:40 a.m.

Mr. Chairman: That is a total of seven people who are invited to appear as witnesses and one to address us in a briefing session. Are there any further witnesses you wish to have appear? Just to reiterate, we will invite these witnesses at our first meeting where we continue this business. If there are problems in having witnesses attend by invitation, we will inform you and the committee will decide if a Speaker's warrant is desirable.

Even if we attempt to do half days with these people, it appears we will have the better part of, I would say, five or six sitting days. There are seven witnesses and one other briefing session, so that would be about eight sessions or about sitting days.

I take it you would give us some latitude in scheduling these people. If they are on vacation or have other commitments and so forth, we would simply attempt to juggle them so they would fit into that time frame.

Mr. Treleaven: Would it be out of order to provide for a little gap in there as a bit of a safety valve, a half day here and there? If somebody did go over, it could be useful instead of having somebody else coming right on his heels. Allow a half day in between. It could be well used.

Mr. Chairman: The problem I have is that we are inviting people to appear, some of whom would come from a considerable distance. For example, I am a little distressed by the idea that we would invite somebody who is a lawyer in northern Ontario to give up his practice, his vacation, or anything else for that matter, to appear in front of us and then have him sit in the back of the committee room for a day or two.

That is not my intention. I am trying to schedule it so that if we bring someone from a distance to appear, we will take that almost as an order of business. We would start with him at 10 o'clock in the morning and we would be able to assure him that he would be out of here by one o'clock or something like that.

There are others who are closer who are employees in and around the buildings at Queen's Park. I would not feel too bad if they had to come back. I am trying to be courteous to witnesses before the committee.

We have eight people who will be invited to appear before the committee during those two weeks. It would start the week of August 11, and would continue the week of August 18.

The other matter I have to contend with is one Mr. Mancini and others have raised with me. Purportedly, the House is not in session. Laughably, this means we can go home, tend to business and do things other people do, such as have vacations, fulfil other commitments and all of that.

During the summer schedule, it has been our tradition to sit Tuesday, Wednesday and Thursday, which gives the members Monday and Friday to work in constituency offices. If you can convince your spouse that Friday is a vacation for this year, go to it, but we would take three sitting days out of the week. That is the pace we would keep. Is that an agreeable way to proceed?

Mr. Laughren: Yes.

Mr. Treleaven: Yes.

Mr. Chairman: We are talking about six sitting days--Tuesday, Wednesday and Thursday for two weeks. Are there other concerns I have to meet?

Mr. Treleaven: There are documents. Rather than get people here and then have answers I am not able to check, I would like to have the minute books, transfer ledgers and registers. This seems to be crucial in what transfers took place, what shares were transferred, and so on, to whose name. These should be here from various companies. Somebody may wish to argue over the companies.

Mr. Chairman: Would you run over what you are asking for?

Mr. Treleaven: Transfer ledgers and registers, and the minute books of various companies.

Mr. Chairman: You will have to be a little more specific.

Mr. Treleaven: I will give you the list of companies, but every solicitor knows what is meant by a minute book, a transfer register and a transfer ledger. That is where the original issuance and the transfer of shares are recorded.

Mr. Chairman: Okay. For what companies?

Mr. Treleaven: Arrow Timber Co. Ltd. Do you want this all out in full or just Arrow? Is that good enough? Arrow, Mooseland, Polar and Fontaine Lumber, not René Fontaine Holdings. Somebody may ask for that if he wishes. Remember, Polar changed its name.



Mr. Chairman: Do not argue the case; just let me try to get what you want first.

Mr. Treleaven: Fontaine Lumber, Hearst Forest Management--we should have those transfers--United Sawmill. Are there any others that other people wish? Golden Tiger? Perhaps Mr. Martin would be invited to bring along the same for Golden Tiger--he is the president--to bring along those ledgers, registers and the minute book for Golden Tiger in his possession.

Mr. Chairman: Let me run over this.

Mr. Treleaven: René Fontaine Holdings? The only other possible one, I think, is Claybelt Lumber. We may not use them, but at least they will be here.

Mr. Chairman: I do not want to hear any complaints about too much paper. It is going to take a GM pickup all day to get this into this room.

Mr. Treleaven: No, it will be a bundle that high, no more. Do you want to deal with that? I have some other things.

Mr. Chairman: You have asked for the minute books, the transfer ledgers and the registers for nine companies?

Mr. Treleaven: Yes, so that they are here if we have questions.

Mr. Chairman: Do not argue the case. Just let me get it straight so I can put it to the committee. Do I have a request for the minute books, the transfer ledgers and the registers for Arrow Timber, Mooseland, Polar, Fontaine Lumber, Hearst Forest Management, United Sawmill, Golden Tiger, René Fontaine Holdings and Claybelt Lumber?

Mr. Treleaven: Yes.

Mr. Chairman: That is the request.

I do not quite know how to proceed, but I am going to ask Mr. Treleaven to try to make his argument of relevance to the committee.

Mr. Treleaven: Yes. We are talking about transfers of shares and transfers among people, families buying shares, to trusts, to blind trusts and frozen blind trusts, and that is where all these things are recorded. In corporations, you have directors' and/or shareholders' resolutions. It would be in the minute books. They would say, "Here is the authority to transfer that share from John Brown to Mary Brown," or whomever, to buy. This is the procedure all corporations use, and it is recorded in a ledger and a register that one share was transferred on such and such a date to that person. That is standard in every lawyer's office; that is how it is done.

Mr. Chairman: Fine. Now can you get to the relevance? Why we would want it?

Mr. Treleaven: So that it is here, rather than having to come back--

Mr. Chairman: No, to the relevance as to why this committee should have these documents placed in front of it.

Mr. Treleaven: Because of the evidence. You need evidence in front

of you about transfers that take place. We are talking about corporations. The relevance is whether the guidelines and the holdings of various corporations were in existence, and these are the places. It is like a bank book. When you start talking about deposits and so on, the bank book in front of you is the evidence that money was put in or withdrawn.

Mr. Chairman: I have some concept of where you are coming from.

Mr. Treleaven: This is not exotic. It is just standard.

Mr. Chairman: I hear a bit of dissent on the matter. Therefore, I suggest this is a matter the committee should vote on.

Mr. Sterling: May I just say one thing? Yesterday, when I asked, and I was kind of startled when I received a letter about the resignation of Mr. Fontaine as a director of René--

Interjection.

Mr. Sterling: Mr. Martel?

When I asked Mr. Fontaine about his directorship of René Fontaine Holdings Ltd., we got a letter dated January 30, 1986. It does not appear to be on anybody's letterhead; it appears to have been done on a typewriter. It is to René Fontaine Holdings, 1120 Edward Street. "Attention: the corporation and directors." Do you know how many directors there are? There is one. René Fontaine. So this is a letter to himself. Then he blamed the corporation and the directors for not filing with the Ministry of Consumer and Commercial Relations that he had resigned as a director. I think that is what Mr. Treleaven is saying.

Everything was so sloppy. How much has been taken care of? If he had not resigned as a director on January 30, 1986--

11:50 a.m.

Mr. Martel: He does not pick up his own mail. You heard him say that.

Mr. Sterling: That is right, but that does not excuse everything that has happened. That is a direct conflict of the guidelines.

Interjections.

Mr. Chairman: Just before you vote on that, I really could not say until I actually got all of these documents and read them all, whether they would be correctly in front of the committee. I just want to caution you that I am having a little bit of difficulty trying to determine whether these have anything to do with the conflict-of-interest guidelines, the Legislative Assembly Act or the Executive Council Act. I cannot make any--

Mr. Mancini: It is a gigantic fishing expedition.

Mr. Treleaven: No, it is not fishing.

Mr. Chairman: Please allow me to complete a sentence. I usually give you that privilege.

Mr. Treleaven: I thought you had finished several. You wanted more--



Mr. Chairman: No, I do not.

Mr. Mancini: It is called a Treleaven trawler.

Mr. Chairman: I think we would all be placed in the position that we would have to read each and every one of these documents all the way through, and we could not really do that. I am suspecting I may have a little difficulty with it.

We have a request then from Mr. Treleaven for the minute books, transfer ledgers and the registers for those nine companies. Those in favour of getting those materials? Those opposed? The motion carries.

Interjections.

Mr. Martel: They are not readable.

Mr. O'Connor: May I make the point, Mr. Chairman, that perhaps rather than reproducing them for each of the members, if one set was available to us if we wanted to look at, it would be sufficient for--

Mr. Chairman: Is that an agreeable way to proceed, that we ask for one set?

Mr. Mancini: Mr. Chairman, I want to point out that none of these companies that has been named by Mr. Treleaven, as far as I can understand, has informed us who its solicitors are. Now we are going to be asking for some information--

Mr. Chairman: We have some practical problems with this.

Mr. Mancini: There are going to be a lot of practical problems here. I want to get back to the basic point I tried to make earlier on. There was some kind of consensus here that we did not get enough information and that we had to hear from more people. We bowed to the wish of the majority of the committee in its feelings that it needed to hear from more people, but we are getting to the point where we are being ridiculous and we are riding the Treleaven trawler. That is exactly what we are doing.

If this committee is interested in finding out whether or not Mr. Fontaine complied with the conflict-of-interest guidelines, we have called an impressive list of people who would be able to give us their information and help us to come to some kind of conclusion, but the requirement of this huge sum of information made by Mr. Treleaven is only going to delay the work of this committee. It is going to force this committee not to sit only two more weeks, but four more weeks so we can keep dragging the name of Mr. Fontaine in the mud. We are not here for a vendetta against Mr. Fontaine. He has appeared before us. He has pleaded guilty. He has asked that he be forgiven. This man has resigned from his ministry and his seat. He is trying to regain his integrity by calling this by-election. For us to continue to ask for huge amounts of documents so we can further extend all of these hearings that are now taking place is really somewhat out of bounds.

Mr. Laughren: Mr. Treleaven needs all the help he can get. Let him get the documents.

Mr. Chairman: Let me make this clear. We have passed by motion of the committee a request for these documents. I have subsequently entertained

some discussion about it and it appears logical that one copy of the documents would be sought. They would go to John Eichmanis who will go through them. They are available to any member of the committee who wants them, but they will not be duplicated and circulated to the committee. Is that agreed?

Ms. Hart: Following on from that, I know from my own personal experience in a number of downtown Toronto law firms, which are supposed to be different from law firms in the north, that these transactions are not recorded on the same date they occur as a matter of course.

Mr. O'Connor: That is what we will find out.

Ms. Hart: My point is that it is not enough just to get the books. If you really want to go on this full fishing expedition, you have got to get somebody to explain.

Mr. Chairman: All I can deal with are motions that are put to me.

Mr. Treleaven: Can I explain? This is not exotic in any way. It is like a bank book. If you ask somebody here, "Did you deposit some money in June?" the person would open it up and look at the transfer ledger and find out if there was an entry there in June. It is no more nor less than entries in a bank book to pick up and refresh the memory. Minute books and seals are kept in lawyer's offices and in head offices and it is very simple to walk in, pick up your minute book and seal and away you go. These are not exotic; they are plain old things that lawyers and corporations deal with. Every corporation has a minute book.

Mr. Chairman: I fail to understand why you put a motion, win a motion and then continue to argue the case.

Mr. Treleaven: I am flabbergasted that a very simple thing is being made into something exotic and machiavellian.

Ms. Hart: I would like to take issue with what my colleague said because they are not like bank books. The dates on the corporate registers often bear no relation to when the exact activity occurred, whereas it is quite different in a bank book where you might be able rely with more accuracy on the date of the transaction. I am flagging that for this committee because we are not going to learn anything from these dates.

Mr. Chairman: Are there any further documents that members of the committee--

Mr. Martel: We are not even going to read them.

Mr. Mancini: Mr. Martel, if you are not going to read the documents, why bother having them?

Mr. Treleaven: Has anyone asked for a copy of the application forms for all timber licences?

Mr. Chairman: No.

Mr. Treleaven: You are saying no one has?

Mr. Chairman: Do not even try.



Mr. Treleaven: Do you not want to see any of the timber licences?

Mr. Chairman: Are there any other documents that members of the committee want? To review, seven people will be asked to appear in the week starting August 12 for three days, Tuesday, Wednesday and Thursday, and the following week starting August 19, Tuesday, Wednesday and Thursday. There will be seven hours for witnesses, and one as a briefing session. We have passed one motion asking for minute books, transfer ledgers and registers for nine companies. We have yet to receive--I think three documents are on their way concerning mining grants. Two are now here and one other document is still to come from Mr. Pratte's office.

We will attempt to get these documents. It appears to me that these mining grants are a considerable amount of documentation. Is it agreeable for matters such as those and the minute books that we get a copy of them, that our researcher has the opportunity to go through them and that they be available to members of the committee? Do you want these copies circulated too? We will circulate these documents to your offices here at Queen's Park.

Is there any further business required? Now you want to raise your motion for counsel.

Mr. O'Connor: I do. Without arguing it again, as I have on previous occasions, I think the volume of documents, the number of witnesses and considerable organizational work that is required to present all of that expeditiously better makes the case for the need for an outside counsel than anything I could say.

Mr. Chairman: Mr. O'Connor moves that the committee retain and instruct private counsel for the purpose of presenting to this committee the evidence with respect to the matter of an alleged conflict of interest of René Fontaine.

Mr. Laughren: At latest count, there are four lawyers on the committee and two lawyers at the front.

Mr. Chairman: There is only one.

Mr. Laughren: It would seem that, collectively, there is at least the equivalent of a lawyer there. I really question the need for yet another finely honed legal mind on this committee. I thought Mr. O'Connor did a very good job when he was questioning the other day.

Mr. Chairman: Do not comment on Treleaven's efforts.

Mr. Laughren: I am not going to bring Mr. Treleaven into it. I think he did a good job in the methodical way in which he was questioning. There are two legal people at the front of the room beside the chairman. Ms. Madisso has worked on a number of committees which I have chaired or on which I have been a member. She is capable and I think we should use the expertise we have without hiring outside legal counsel.

Mr. Chairman: Do you want to withdraw this motion again?

O'Connor: In the light of the overwhelming argument made by my colleague behind me as to the competence of the lawyers--

Mr. Treleaven: And the likelihood of the vote, if we put it to a vote.

Mr. O'Connor: --I will withdraw the motion.

Mr. Chairman: This is the last time you are going to withdraw this motion. The motion is over the hill.

Any further business before the committee?

We stand adjourned until Tuesday, August 12, at 10 a.m.

The committee adjourned at 12:01 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

TUESDAY, AUGUST 12, 1986

Morning Sitting





Mr. Sterling: I agree with that. I wanted to give some advance notice.

Mr. Chairman: Mr. Gagné, you have counsel with you. On previous occasions we have begun the proceedings by clarifying for the record that counsel is here to advise the witness, not to be a participant in the process. You are invited to make a statement to the committee, however short or long you want, in French or English, whichever is more comfortable to you. We will swear in the witness, you will make your statement, and then the committee will be in a position to ask questions.

André Gagné, sworn.

Mr. Gagné: My declaration will be in French, but I have provided English copies.

Bonjour M. le Président et membres du Comité.

Avant de répondre aux questions du Comité, j'aimerais faire une courte déclaration pour clarifier quel a été mon rôle dans les situations qui ont mené aux accusations de conflit d'intérêt contre M. René Fontaine.

D'abord, permettez-moi de me présenter. Je suis comptable agréé pratiquant depuis 1961, établi avec quatre autres associés dans deux bureaux, dont un se trouve à Hearst et compte 17 employés. Mes relations avec René Fontaine remontent à 1952 où nous avons étudié ensemble à l'Université d'Ottawa. Nous sommes amis depuis cette date. En 1962, j'ai été engagé comme comptable par René Fontaine pour m'occuper des affaires de sa compagnie, Polar Lumber Co. Ltd., et par son père, pour Fontaine Lumber Co. Ltd.

Retournant à la situation présente, voici quelques faits en ordre chronologique:

Le 8 juin 1985, à 2h00 de l'après-midi, j'ai reçu un appel téléphonique de René qui me demandait de me rendre à Toronto pour une réunion qui aurait lieu le lendemain matin, car ses actions dans United Sawmill Ltd. lui causaient certains problèmes. La réunion eut lieu le 9 juin 1985, à 10h00 du matin, à Queen's Park, avec Mme Mary Eberts. Elle a posé des questions à René pour remplir un formulaire de divulgation, et j'ai aidé René à répondre à certaines questions.

Mme Eberts expliqua aussi à René ce qu'il aurait à faire pour se conformer aux directives relatives aux conflits d'intérêts s'il devait être nommé ministre. Une de ces recommandations était la vente par René de ses actions dans United Sawmill, si le FMA devenait en vigueur.

A deux heures, j'ai accompagné Mme Eberts au bureau de M. Wright, René étant parti faire un discours à Sudbury. Nous avons parlé à M. Wright, qui a confirmé que selon les directives relatives aux conflits d'intérêts, tel qu'elles existaient, le FMA nécessiterait la vente des actions de United Sawmill, si René devenait ministre.

Lors de la prochaine rencontre avec René, je lui ai recommandé de ne pas vendre ses actions dans United Sawmill, car il lui serait alors impossible de les transmettre à ses enfants, selon la coutume qui existait depuis trois générations.

Mme Eberts a aussi recommandé à René que les actions de Golden Tiger Mining Exploration Co. Inc. soient éventuellement vendues ou placées dans un fonds de fiducie sans droit de regard.

En octobre ou novembre 1985, René m'a téléphoné pour me parler du fonds de fiducie et m'a confié la tâche de faire les contacts nécessaires pour établir ce fonds. J'ai recommandé Canada Trust comme fiduciaire et René a choisi Mary Eberts comme avocate.

Je n'ai pas été impliqué dans le processus à savoir, quelles actions devaient être placées en fiducie sans droit de regard. Quant à mon rôle dans cette affaire, il se limitait à protéger les intérêts de René et de la compagnie United Sawmill et d'exécuter les tâches spécifiques à la demande de René soient: l'accompagner au bureau de Mary Eberts, le 9 juin 1985 et faire les contacts pour établir un fonds de fiducie sans droit de regard.

Parce que j'étais inquiet du pouvoir qui était délégué à la compagnie de fiducie, j'ai recommandé que Canada Trust retienne les services de Roland Cloutier comme consultant, parce que celui-ci avait de nombreuses années d'expérience dans les scieries et à cause de son expertise dans la structure et le fonctionnement de United Sawmill.

Lorsqu'on m'a demandé de comparaître devant le comité, j'ai demandé à savoir quel sujet intéressait particulièrement le comité. On m'a répondu que c'était le délai dans la vente des actions de Golden Tiger. Donc, j'explique:

D'après les renseignements que j'avais, la date limite était le 31 décembre 1985. Il n'y avait pas d'urgence. Mme Eberts et René étaient tous deux très occupés et très difficiles à rejoindre. René m'avait dit que Golden Tiger était une compagnie du Québec dont les affaires se déroulaient en grande partie au Québec.

Nous attendions les nouvelles directives relativement aux conflits d'intérêts avant de vendre ou former un fonds de fiducie, car si René devait vendre ses actions dans United Sawmill, je lui ai recommandé de démissionner comme ministre. Alors, il n'aurait pas été nécessaire de vendre ses actions dans Golden Tiger.

En attendant, j'ai recommandé à René d'éviter de faire affaire avec Golden Tiger et United Sawmill jusqu'à ce que le tout soit décidé, afin d'éviter de donner l'impression de se servir de son influence.

Le prix des actions de Golden Tiger n'a joué aucun rôle dans la recommandation de vendre ou de garder les actions. De plus, ne n'ai jamais été informé des actions entières avant de l'apprendre par les médias. À ma connaissance, toutes les actions dans Golden Tiger avaient été vendues avant le 31 décembre 1985.

D'après les médias, il semble aussi que certains actifs ont été omis dans la liste des divulgations. Même si on ne m'a pas demandé de dresser une liste, j'accepte une part des responsabilités dans l'omission des billets à recevoir, car j'étais au courant de ces recevables.

Quant aux autres items de la liste, je n'en prends aucune responsabilité, car je n'avais jamais préparé de bilan personnel pour René. Personne ne peut faire une liste d'actifs pour quelqu'un d'autre, à moins d'être informé de tous ses actifs. Or, René n'avait pas l'habitude de discuter de tous ses investissements avec moi.



10:20 a.m.

Je me dois d'ajouter ici, connaissant René depuis plusieurs années comme une personne très honnête, que je ne suis tout de même pas surpris de cet oubli de sa part. A ma connaissance, René ne s'est jamais soucié des détails de ses avoirs. Merci.

Mr. O'Connor: Thank you for attending this morning and giving the initial statement, which is of some assistance to us in getting the matter under way.

May I ask you a little more about your relationship with Mr. Fontaine. As you indicated, it goes back a long way, from the time you were students together at the University of Ottawa. You commenced acting for him and his companies in 1962. Are you his personal accountant? Since then, have you acted for him in a personal capacity, completing his income tax returns and so forth?

Mr. Gagné: I have prepared René's income tax returns for the past 20 years.

Mr. O'Connor: Have you acted for his companies other than Polar Lumber? United Sawmill, you have indicated there have been--as he has indicated to us--that he has a variety of corporate interests and other holdings in town.

Mr. Gagné: I have acted as consultant for his companies for a number of years.

Mr. O'Connor: Are you the accountant for the various companies?

Mr. Gagné: The companies need an auditor, and I do not do audits. It was somebody else in the office who did the audit.

Mr. O'Connor: Somebody in your office?

Mr. Gagné: Yes.

Mr. O'Connor: As far as you know, all the work for René and all his interests, his companies and holdings was done either by you or someone in your accounting office in Hearst?

Mr. Gagné: Yes.

Mr. O'Connor: Having completed his income tax returns for 20 years, as you have indicated, were you not aware of some of the additional holdings he brought to our attention when he appeared before this committee? Although they are very small and not worth an awful lot of money, would you not have been aware of those?

Mr. Gagné: We prepared his tax return from the T-5 slips he received. We were not aware of any holdings for which no T-5 slips were declared.

Mr. O'Connor: Your relationship with him would be simply one of taking the information he gave to you and completing returns, forms, corporate information returns and so forth? Am I correct on this? Is it based on that information, rather than being in the nature of an adviser, someone who took

all of his business interests, guided and directed and told him, "René, here is a good investment; do it this way or do not do it that way"?

Mr. Gagné: No. I was never consulted on investments.

Mr. O'Connor: Never consulted on investments? He was his own investment manager, I take it.

Mr. Gagné: Yes.

Mr. O'Connor: That brings us to the initial meetings, which you say commenced on June 9, 1985. You were summoned to a meeting here. Had you met with René prior to that meeting about what this would be about and the kinds of documents you might be required to bring with you and the kinds of questions you might be asked?

Mr. Gagné: No.

Mr. O'Connor: Did you bring any documentation or files with you?

Mr. Gagné: No.

Mr. O'Connor: You indicate on page 2 that Mary Eberts "questioned René to fill some declaration forms, and I helped him answer some questions." Did you make any notes of what transpired at that meeting?

Mr. Gagné: No.

Mr. O'Connor: Do you recall the questions Ms. Eberts asked him and you and generally what the conversation among the three of you was about?

Mr. Gagné: She attempted to make a list of all his assets, and then she explained to him what the conflicts of interest were and what he had to do.

Mr. O'Connor: Was anyone else at the meeting?

Mr. Gagné: No. It lasted from 10 to 12.

Mr. O'Connor: It was two hours and an exploratory type of thing to try to understand what he owned and held?

Mr. Gagné: Yes.

Mr. O'Connor: I take it that both you and René were providing information on what he held.

Mr. Gagné: René was providing the information.

Mr. O'Connor: Did she ask any questions of you?

Mr. Gagné: I cannot recall.

Mr. O'Connor: Did she ask you to do anything as a follow-up to the meeting? Was there any responsibility left with you to gather documents or information?

Mr. Gagné: No.



Mr. O'Connor: Was there anything left for René to do? Was he asked to gather any further information or documents?

Mr. Gagné: No. The only subject was the meeting with Mr. Wright.

Mr. O'Connor: What was the discussion about that?

Mr. Gagné: She wanted to confirm, or she wanted a second opinion on the decision that the forest management agreement would be new business with the government; therefore, René would have to sell his shares.

Mr. O'Connor: So the FMA was discussed?

Mr. Gagné: Yes. She asked what it was.

Mr. O'Connor: She asked what it was?

Mr. Gagné: Yes.

Mr. O'Connor: What did you tell her it was?

Mr. Gagné: René answered.

Mr. O'Connor: What did he say it was?

Mr. Gagné: I cannot recall exactly.

Mr. O'Connor: You do not recall how he described the FMA. Do you recall what he said as to its status; when it was going to be signed; where it stood at the present time?

Mr. Gagné: I cannot recall the exact conversation. The details of it I cannot recall.

Mr. O'Connor: What do you understand the FMA to be?

Mr. Gagné: An FMA--the minister transferred the planting of trees to the lumber companies and they were given some money. The lumber companies accept this because they think they are going to do a better job than the ministry. Five years down the road, they are probably both right. The ministry--then in forests they will save money and the companies will do a better job because if they do not do a good job, they are going to be the losers.

Mr. O'Connor: Is it your understanding as an accountant and as a man who has experience with figures and balance sheets and so forth that entering into an FMA is an advantageous thing financially for the company that enters into it?

Mr. Gagné: I am not prepared to say that.

Mr. O'Connor: You are not prepared to say it?

Mr. Gagné: No.

Mr. O'Connor: Why not?

Mr. Gagné: The lumber companies will have to do a better job because it is going to be honest. They will probably be spending more money than the ministry is doing at the present time.

Mr. O'Connor: Nevertheless, would you agree with me that there is going to be some fair profit in it for the lumber companies that enter into these agreements?

Mr. Gagné: If they spend money; if they spend more money than the ministry does.

Mr. O'Connor: What you are saying is if they manage the thing properly, they will make a profit; is that correct?

Mr. Gagné: Yes.

Mr. O'Connor: Have you done any cost projections for Mr. Fontaine's company, United Sawmill, with respect to what it might earn over the initial five years and thereafter?

Mr. Gagné: Nobody has done any figures.

Mr. O'Connor: Is there a chance of losing money?

Mr. Gagné: According to the manager of Hearst Forest Management Inc., yes.

Mr. O'Connor: I put it to you as an accountant and as a prudent businessman, running a business of your own, managing some 17 people in one office, that one of the purposes of your being in business is to earn a living, to make a profit. As such, surely you and René--I will ask you this as to whether you have had discussions with regard to the FMA and its profitability: What is likely the return to him and his companies over the years? We asked him this same series of questions and got approximately the same answers we are getting from you.

I am wondering if you can be of more assistance in that you are the financial adviser to Mr. Fontaine.

Mr. Mancini: Mr. Chairman, did he not say there was no study done? I think that fairly well answered the questions. We are asking this gentleman for off-the-wall answers.

Mr. O'Connor: I do not agree that they are off-the-wall.

Mr. Chairman: Let me intervene for a minute here. I sense that we are a little bit afield, but I would like the questioning to proceed. I would like it to get a little sharper, frankly, but I think he has been fairly reasonable so far. The one little caution I put on you here is that the witness has already said he is not the financial adviser; so I do not see much sense in pursuing that. But I think he is fishing within the proper pond. Go ahead.

10:30 a.m.



Mr. O'Connor: We will leave it at this. Was there any discussions between you and Mr. Fontaine or members of his family, other people associated with United Sawmill, as to the potential profitability of the FMA, as to what it might return to them in the long run?

Mr. Gagné: No.

Mr. O'Connor: Was there any indication from René then as to why he wanted to enter into this agreement at all?

Mr. Gagné: I do not know what René was thinking. He asked me to talk in his place.

Mr. O'Connor: To go back to the meeting with Ms. Eberts, you indicated that she explained the conflict-of-interest guidelines to him. Did she have a copy of the then existing guidelines?

Mr. Gagné: Yes.

Mr. O'Connor: Did she hand them to you and to him?

Mr. Gagné: Yes.

Mr. O'Connor: I take it they were the guidelines that existed under the former government and not the new ones. Obviously, they were not prepared yet. Is that right?

Mr. Gagné: Yes.

Mr. O'Connor: What explanation did she give him about those guidelines, as to his requirement to adhere to them?

Mr. Gagné: The part I remember exactly is the FMA. The reason René called me was he wanted somebody close because selling shares of United was very serious.

Mr. O'Connor: The discussion, as you recall it, revolved around the guidelines as they affected his position in United Sawmill, and therefore the FMA, and did not encompass anything broader than that. Is that correct?

Mr. Morin: Mr. Chairman, perhaps Mr. Gagné would prefer to answer in French if he feels more at ease.

Mr. O'Connor: I think his counsel has asked him to do that already.

Mr. Morin: If he so prefers, if he feels more at ease in explaining. Sometimes it is easier to express oneself in one's own language.

Mr. Chairman: The option is up to you, Mr. Gagné. We have translation services available. If you are more comfortable in French, go ahead.

Mr. Gagné: The reason I hesitate is that I want to be exact. You are asking me about events that took place in June 1985.

She explained in general to René what the conflict of interest was. She told him about the FMA. When he explained about the FMA, she said: "In my

opinion, it is a new contract with the government. You will have to get rid of your shares in United according to the guidelines." According to the 1972 guidelines, he had to sell his shares in United Sawmill.

Mr. O'Connor: You say she explained to him what the guidelines were all about. Do you recall what that explanation was?

Mr. Gagné: No, I cannot recall.

Mr. O'Connor: You recall specifically her mentioning that, according to the 1972 guidelines, he would have to get rid of his United Sawmill shares if he entered into the FMA.

Mr. Gagné: Yes. I recall this vividly because it was mentioned casually, and to me selling shares of United was not something casual.

Mr. O'Connor: That struck you as being quite serious, if he had to do that.

Mr. Gagné: Yes.

Mr. O'Connor: Was there any discussion about his Golden Tiger shares?

Mr. Gagné: He told me the number of shares he had in Golden Tiger.

Mr. O'Connor: Do you remember what the number was?

Mr. Gagné: I cannot recall.

Mr. O'Connor: Was it 75,000? It does not matter. Did she indicate that they would have to be sold?

Mr. Gagné: No. The information was that they would eventually have to be sold or put in a blind trust.

Mr. O'Connor: Was there any discussion at that point as to the fact that Golden Tiger was receiving grants from the Ontario government?

Mr. Gagné: Yes. They asked in the questionnaire, and René answered positively that Golden Tiger was receiving grants from the Ontario government.

Mr. O'Connor: At the June 9 meeting, was Ms. Eberts aware that he held shares in Golden Tiger and that it was receiving mining grants from the Ontario government?

Mr. Gagné: It was one of the questions.

Mr. O'Connor: I know it was. It appeared subsequently in the questionnaire return that was signed on July 23. Are you aware of the form that was subsequently produced and signed on July 23?

Mr. Gagné: Yes. I received a copy.

Mr. O'Connor: I take it was that return you were attempting to complete at this meeting on June 9?

Mr. Gagné: She was attempting to complete it.



Mr. O'Connor: She was attempting to complete it. Did she have the blank form with her?

Mr. Gagné: Yes.

Mr. O'Connor: She was filling in information as you went through it?

Mr. Gagné: I do not know if she was filling in information or taking notes, but she was writing down something.

Mr. O'Connor: You indicate that Mr. Fontaine went somewhere else at two o'clock and you attended on Blenus Wright. Is that correct?

Mr. Gagné: Yes.

Mr. O'Connor: Was that the first time you had met him?

Mr. Gagné: I do not know if it was Blenus Wright. I just know his name is Wright.

Mr. O'Connor: You again had a discussion among the three of you. Is that correct?

Mr. Gagné: About the forest management agreement.

Mr. O'Connor: About the FMA only?

Mr. Gagné: Yes.

Mr. O'Connor: Was there any discussion of Golden Tiger at that point?

Mr. Gagné: I cannot recall, but I do not think so.

Mr. O'Connor: What was the substance of the discussion with Mr. Wright and Ms. Eberts.

Mr. Gagné: Mr. Wright confirmed that Ms. Eberts's opinion was right. According to the 1972 guidelines, he had to sell his shares in United if he became a minister.

Mr. O'Connor: Have you had a chance to look at the guidelines that were ultimately produced by the present government--

Mr. Gagné: I had a copy last Thursday.

Mr. O'Connor: --as to how they vary or differ from the 1972 guidelines?

Mr. Gagné: He can put his shares of United into a blind trust.

Mr. O'Connor: They did differ then to accommodate Mr. Fontaine's problem with United Sawmill shares. Is that correct?

Mr. Gagné: Yes.

Mr. O'Connor: The former guidelines would not have permitted him to put United Sawmill shares in a blind trust, but the subsequent Peterson guidelines would. Is that correct?

Mr. Gagné: Yes.

Mr. O'Connor: Do you know how that came about? Were you party to any further discussions as to why that change was made?

Mr. Gagné: None whatsoever.

Mr. O'Connor: Did you at any future time meet again with Ms. Eberts or Mr. Wright? Did you have telephone conversations with them over the course of the summer?

Mr. Gagné: Ms. Eberts.

Mr. O'Connor: Do you remember how many and approximately when?

Mr. Gagné: I do not know the exact number of times.

Mr. O'Connor: Approximately how many times would you have talked to her?

Mr. Gagné: She was very difficult to reach.

Mr. O'Connor: You have mentioned that, yes. Did she call you at all? Approximately how many times did you talk to her by phone?

Mr. Gagné: Between five and 10.

Mr. O'Connor: That would have been between June 9 and when?

Mr. Gagné: I think the last time I talked to her was the time I phoned her to prepare the blind trust, which was in October-November.

Mr. O'Connor: I think you had indicated November, yes. What was the purpose of those five to 10 conversations? Was she seeking further information, were you seeking information of her or what was happening?

Mr. Gagné: I cannot recall exactly.

Mr. O'Connor: Was there a process going on whereby she was bugging you to get some material to her, to get the work done?

Mr. Gagné: No.

Mr. O'Connor: Was the reverse happening? Were you contacting her to ask, "When are you going to get this material completed because René wants to sell his shares," or something to that effect?

Mr. Gagné: I cannot recall.

Mr. O'Connor: You have no idea what the substance of those phone calls was?

Mr. Gagné: The substance was René.

Mr. O'Connor: Was it Golden Tiger?

Mr. Gagné: I do not think so.



Mr. O'Connor: The FMA?

Mr. Gagné: The FMA was settled. Mr. Wright settled it.

10:40 a.m.

Mr. O'Connor: How was it settled?

Mr. Gagné: If he is a minister, then he has to sell it.

Mr. O'Connor: He had to sell unless the guidelines were changed.

Mr. Gagné: Yes.

Mr. O'Connor: When did you first suggest to Mr. Fontaine that he should sell his shares in Golden Tiger?

Mr. Gagné: I cannot recall the date, but I recall saying to René to sell his shares in Golden Tiger.

Mr. O'Connor: Do you not remember the date?

Mr. Gagné: No.

Mr. O'Connor: Did Ms. Eberts tell him to sell his shares in Golden Tiger?

Mr. Gagné: Mr. Fontaine claims Ms. Eberts called me, but I cannot implicate Ms. Eberts because I am not sure whether she called me or not.

Mr. O'Connor: At the meeting did she mention selling the Golden Tiger shares?

Mr. Gagné: They either had to be put in a blind trust or sold, but there was no rush.

Mr. O'Connor: You do not recall when she said that. Is that correct?

Mr. Gagné: I got my information in June or July. Eventually, he would have to sell or put them in a blind trust.

Mr. O'Connor: You are aware, of course, that he became the Minister of Northern Development and Mines on June 26. Is that correct?

Mr. Gagné: I cannot recall the exact date.

Mr. O'Connor: On June 26, he became Minister of Northern Development and Mines. After that, did you discuss with him that now that he was Minister of Northern Development and Mines and he and his family members held 75,000 shares in a mining company that was doing business with his own ministry, perhaps he should do something about those shares?

Mr. Gagné: I remember one conversation in which I told him to stay away from United Sawmill and Golden Tiger and not to sell anything until it was decided whether he was going to stay minister.

Mr. O'Connor: He was going to stay minister?

Mr. Gagné: Because if he had to sell United, I was recommending to René to quit.

Mr. O'Connor: Do you recall during any of the conversations you had with Ms. Eberts whether the question arose that now that he was the minister of mines and doing business with his own company, he should sell the Golden Tiger shares?

Mr. Gagné: I cannot recall.

Mr. O'Connor: The Golden Tiger issue is totally separate from the FMA. You understand United Sawmill is a family company and there would be real concern if he had to sell those shares. However, as we have learned, Golden Tiger was not of great concern to Mr. Fontaine; in fact, he forgot to declare some 17,000 of those shares. Its value to him and his family was very much less than the United Sawmill thing. You do not recall, therefore, any suggestion that he sell those Golden Tiger shares immediately he became Minister of Northern Development and Mines or shortly thereafter?

Mr. Gagné: I cannot recall. In my role, I was greatly concerned with his shares in United. Golden Tiger was never a subject of conversation.

Mr. O'Connor: Did you meet at all during this time with Mr. Fontaine's lawyer, Mr. Bourgeault?

Mr. Sterling: Mr. Chairman, may I interrupt here? I have noticed counsel talking to his client on a number of occasions. As I understood it, counsel was here to advise Mr. Gagné and advise the witness; he is not here to coach the witness. Therefore, I ask him not to talk continually to the witness during the questioning period. I do not know whose answers I am getting. Am I getting Mr. Gagné's answers or am I getting his counsel's answers?

He knows that if he were in court he would be slapped down by a judge for doing what he is doing at this time. He has a right to object--

Mr. Mancini: If we were in court, you could not ask those leading questions either.

Mr. Sterling: He has a right to--

Mr. O'Connor: We can ask them. I was cross-examining him.

Mr. Mancini: No. You could not ask those leading questions and make some of the allegations you made in your questions.

Mr. Sterling: If Mr. Gagné seeks his counsel, I have no objection to his getting counsel, except that in almost every question the witness appears to be coached by counsel.

Mr. Warner: I guess you have not had your coffee this morning.

Mr. Sterling: I want the truth.

Mr. Chairman: In response to that, I have some difficulty. A lot of coaching is going on in this room this morning. People asking questions are getting notes from staffers and I am not going to stop that process. I am sure members are getting advice, which I consider to be reasonable.



If we allow counsel to be present with a witness, I believe counsel is here to advise the witness. You may call that coaching, or anything you want, but in my view, the committee has concurred that witnesses before this committee have a right to counsel and counsel has a right to advise them. I do not recall this committee making the distinction between advising witnesses how to say things or whether to answer the question. As has been the practice on previous occasions when witnesses have appeared in front of us with counsel for advice, the counsel will be permitted the opportunity to advise the witness in whatever way he sees fit and the committee will not intervene in that process.

If it got to the point where I felt the advice was overwhelming or we were not getting anywhere, I might be convinced to intervene. As I have seen it so far, we have a witness before the committee with counsel. Counsel is providing him with advice in much the same way as staff is providing members of the committee with advice. That is reasonable and proper and we will proceed in that way.

Mr. Sterling: On the same point, there is a significant difference. Members of the committee are not witnesses before this committee. The purpose of having a witness sworn is for him to answer a question as directly as he can. That is what I am interested in.

I have received notes from my staff about particular points. I am not questioning the witness at this time either, and that is a point of distinction. I appreciate Mr. Gagné might have some problems with the English-French translation. I thought we were allowing considerable latitude, but on almost every question there seems to be something coming forward. If he does not understand, he should ask that the question be repeated.

This is the same counsel we had for Mr. Fontaine. Therefore, there are objectives in cross-examination on the statement Mr. Gagné has made. I submit that we are not perhaps getting a true story of what is going on here.

Mr. Mancini: We are hearing a serious accusation.

Mr. Chairman: The ruling is that this committee has allowed witnesses to have counsel. I can find no reason in the book to allow counsel if you do not let counsel advise the witness. On previous occasions, we have worked in exactly the same manner. I see no distinction between what we have done every other day we have had a witness with counsel present and today.

I have listened to your objections. If you want to get sticky about it, the ruling is that if you let him have counsel, counsel must be allowed to advise the client. That is the way we will proceed. If you object to that process, you can challenge the ruling of the chair.

While we are at it, let me point out that I have also allowed considerable latitude as well with questions this morning because I feel it is reasonable. I hope we do not listen to 10 people use the same amount of latitude, but the first questioner gets a little more leeway than anybody else in asking questions. Although there has been some objections to that, it is reasonable to let Mr. O'Connor proceed.

Mr. O'Connor: As far as you recall, Ms. Eberts did not mention to you in the course of your five to 10 phone calls during the summer of 1985 that Mr. Fontaine, being Minister of Northern Development and Mines, should sell his mining shares. Is that correct?

Mr. Gagné: I cannot recall that she said so, even though Mr. Fontaine does. He said in the statement she is the one who phoned me.

Mr. O'Connor: Yes, that is correct. You do not recall her phoning you?

Mr. Gagné: No.

Mr. O'Connor: I am sorry. I forgot. Did you meet with Mr. Wright again during the summer or talk to him by telephone?

10:50 a.m.

Mr. Gagne: No.

Mr. O'Connor: In the course of your work over the summer and in the fall of last year, did you meet with Michel Bourgeault?

Mr. Gagné: Not during the summer, not in 1985.

Mr. O'Connor: How did he become involved? What was his involvement in the whole thing?

Mr. Gagné: In January, I talked to Mr. Bourgeault on the phone and asked him to look into René's personal affairs to make sure there were no problems.

Mr. O'Connor: As far as violation of the conflict-of-interest guidelines go?

Mr. Gagné: No, the blind trust.

Mr. O'Connor: The blind trust. I see. In preparing the forms and assisting Ms. Eberts, did you speak to any other members of Mr. Fontaine's family, his children, his wife?

Mr. Gagné: No.

Mr. O'Connor: Did you speak with his brokers?

Mr. Gagné: No.

Mr. O'Connor: Did you speak with Paul Martin?

Mr. Gagné: Never met him.

Mr. O'Connor: Never met him?

Mr. Gagné: I may have met him once a couple of years ago for two minutes.

Mr. O'Connor: After the meeting of June 9, what was your role? What was your involvement over the course of the summer and the fall?

Mr. Gagné: The protection of René's interests in United Sawmill.



Mr. O'Connor: What I mean is, what form did that take? You say you had five or 10 conversations with Ms. Eberts. Was there work to do to bring that about?

Mr. Gagné: No.

Mr. O'Connor: So you were basically reacting to her questions?

Mr. Gagné: I cannot recall the exact conversation we had, but it was nothing in particular.

Mr. O'Connor: Was there work for you to perform in your office up in Hearst?

Mr. Gagné: No.

Mr. O'Connor: And you cannot recall what it was you did over the summer and fall?

Mr. Gagné: No.

Mr. O'Connor: Did you fill any forms in that you can recall?

Mr. Gagné: No.

Mr. O'Connor: Did you take away from that meeting a copy of the form she had in front of her and was making notes on?

Mr. Gagné: No. I had a copy of the 1972 guidelines.

Mr. O'Connor: When was it that you got the up-to-date guidelines?

Mr. Gagné: Last Thursday.

Mr. O'Connor: Last Thursday? Did you notice they were changed?

Mr. Gagné: I checked it.

Mr. O'Connor: And they were satisfactory to René's problem?

Mr. Gagné: The part I checked is the part concerning the blind trust, the shares of the private companies.

Mr. O'Connor: I take it the guidelines were clear to you. You understood them when you first got them? The old ones, that is.

Mr. Gagné: Yes.

Mr. O'Connor: Did it appear to you in that meeting that René understood them?

Mr. Gagné: That is a difficult question.

Mr. O'Connor: I ask you that because you indicated in your statement that Ms. Eberts explained them to him.

Mr. Gagné: Yes.

Mr. O'Connor: Did you get involved in the explanation to him also, perhaps translate for her?

Mr. Gagné: No. It appears to me that René must have understood the guidelines.

Mr. O'Connor: Did you have any discussion with him subsequent to the meeting about them?

Mr. Gagné: Yes.

Mr. O'Connor: On how many occasions?

Mr. Gagné: I remember one occasion when I told him to stay away from United and Golden Tiger.

Mr. O'Connor: When was that?

Mr. Gagné: June 9. He was then minister. Probably in July.

Mr. O'Connor: Was that all you said? Was there a discussion that took place? Did he ask you why he should stay away from them?

Mr. Gagné: To make sure that he does not use his influence as a minister.

Mr. O'Connor: To make sure he does not use his influence?

Mr. Gagné: Yes.

Mr. O'Connor: Were you aware at this point that Golden Tiger was receiving mining grants from his ministry? Did he ever mention it to you?

Mr. Gagné: No. Sorry; it was in the formulaire.

Mr. O'Connor: What was that? I am sorry.

Mr. Gagné: C'était dans le formulaire de divulgation, the disclosure form. There was a question, "Do you have any shares in companies that received grants?" and he answered yes. That is the only time the word "grants," meaning the money department, was mentioned to me.

Mr. O'Connor: How soon did you see that form after it was completed?

Mr. Gagné: July.

Mr. O'Connor: Incidentally, the date on it is July 23.

Mr. Gagné: It was the end of July.

Mr. O'Connor: Did you get it shortly after that? Did it trigger anything in your mind with regard to Golden Tiger?

Mr. Gagné: No.

Mr. O'Connor: Do you recall reading that section and it coming to your mind at that point?



Mr. Gagné: I read it again a couple of weeks ago.

Mr. O'Connor: But you also read it at the time.

Mr. Gagné: Yes.

Mr. O'Connor: When Mr. Fontaine was before us, he revealed several other interests in businesses and holdings he has, albeit some of them are small and some have no value at all. Were you aware of those before he told us about them a couple of weeks ago?

Mr. Gagné: I was aware of his holding company, and I was aware of United Sawmill.

Mr. O'Connor: Is that all?

Mr. Gagné: That is all.

Mr. O'Connor: Despite having done his income tax return? Would those things not have come to light?

Mr. Gagné: Not if you do not have dividends.

Mr. O'Connor: I understand that, if there is no interest or income; but according to him, some of them had produced small amounts of income over the years. You were not aware of them?

Mr. Pratte: Mr. Chairman, the witness would like two minutes.

The committee recessed at 10:52 a.m.

11:03 a.m.

Mr. Chairman: We are ready to proceed again.

Mr. O'Connor: Back to your statement, if I may, Mr. Gagné; I refer to paragraph 3 at the bottom of page 2. You indicate, "During my next meeting with René, I advised him not to sell his shares in United Sawmill," etc. Do you recall when that meeting was? You had been talking about the meeting on June 9 just before it. Was this shortly after the June 9 meeting?

Mr. Gagné: July, I think.

Mr. O'Connor: It was in July? Do you remember the date?

Mr. Gagné: No. July or August.

Mr. O'Connor: That would have been a meeting with just you and Mr. Fontaine present?

Mr. Gagné: And my wife.

Mr. O'Connor: In Hearst?

Mr. Gagné: No. He arrived at my residence, I think on Friday night, and he asked that I drive him to Hearst. I drove him halfway.

Mr. O'Connor: Did he walk the rest?

Mr. Gagné: His wife left Hearst and picked him up.

Mr. O'Connor: When you told him not to sell his shares because it would be impossible to transfer this to his children, etc., I take it he seemed to understand that advice. What was his response to that?

Mr. Gagné: I cannot recall, but it must have been positive. You do not sell a family business of three generations very--you must sell casually.

Mr. O'Connor: I take it you were putting to him an option: that if he were required to sell his shares, he should resign his ministry; it was more important in the long run to maintain the family business than to maintain his position in the Ontario cabinet. Is that correct?

Mr. Gagné: I cannot recall if I told him exactly that he would have to resign, but that was my position.

Mr. O'Connor: Was there another option discussed between you and René at that point, the other option being, "Let us see if we can get the guidelines changed"?

Mr. Gagné: No.

Mr. O'Connor: Did you subsequently have any conversations with Ms. Eberts about the changing of the guidelines?

Mr. Gagné: What I remember about the guidelines was that somebody told me they were changed.

Mr. O'Connor: Somebody told you. Who was that somebody?

Mr. Gagné: I cannot remember.

Mr. O'Connor: Was Ms. Eberts aware, from the first meeting or any of your subsequent conversations, that you were advising René that if he had to sell his United Sawmill shares, you were going to tell him to resign as a minister?

Mr. Gagné: I do not think I said to anybody that he was going to have to resign, but that was my position.

Mr. O'Connor: Did you tell him that?

Mr. Gagné: We never had to discuss his resignation, because the shares of United could be transferred to a blind trust.

Mr. O'Connor: So you did not have that conversation with René?

Mr. Gagné: I did not tell René--your question is, his resignation?

Mr. O'Connor: Yes.

Mr. Gagné: I cannot recall mentioning to him his resignation.

Mr. O'Connor: Did you discuss that subject with Ms. Eberts on the phone; that is, "If the guidelines are not changed, I am going to have to tell René to resign his ministry"--something to that effect?



Mr. Gagné: I cannot remember.

Mr. O'Connor: Is it possible you could have, though?

Mr. Gagné: Yes, it is possible.

Mr. O'Connor: Do you recall any response she had to that? And did you discuss that with anyone else; Mr. Wright, for instance?

Mr. Gagné: Mr. Wright; I have only met him once, June 9.

Mr. O'Connor: Okay. So in terms of the five to 10 conversations, of which you cannot recall their subject, it is possible that during one or more of them the subject of René's threatened resignation was raised. Is that what you are saying?

Mr. Gagné: First of all, the five to 10 conversations is a guess on my part, if you remember. Now we are using it as a fact, which is not correct. I cannot remember the exact number of conversations. If you ask me to take a guess, I will take a guess at five to 10; it may be three, it may be seven. I cannot recall.

On the subject of the conversations, I may have mentioned it to Ms. Eberts; I may have mentioned it, but I cannot recall the exact conversation.

Mr. O'Connor: Can you recall--if you may have mentioned it--generally what the conversation was?

Mr. Chairman: Could I intervene slightly? I do not want to interrupt the line of questioning, but we really are getting rather far afield here.

Interjection: No.

Mr. O'Connor: Mr. Chairman, may I take the--

Mr. Treleaven: Right on point.

Mr. O'Connor: This is exactly the point.

Mr. Chairman: Let me put it this way: I have heard you question the witness about whether the witness thought in his opinion under a certain set of guidelines he would have to resign; the witness said yes. It then became a threatened resignation.

I realize there is a little language problem at work here this morning, and I am trying to account for that. I would simply like you to put direct questions to the witness. I would appreciate it if you would ease up a little bit on the speculation. How about that?

Mr. O'Connor: As I understand this process, it is one of cross-examination; is that correct? If I am wrong there, let us correct that.

Mr. Chairman: It is not cross-examination as you may know it. You can use those words if you want; I do not quibble about that. You have had an hour or so now to ask questions of the witness. You are free to do that. I am just asking you not to speculate quite as much as you are doing. Okay?

Mr. O'Connor: It is a standard type of question in the course of cross-examination to put fact situations to a witness and to ask him to comment on them.

Mr. Chairman: I do not have any objection to you putting facts in front of a witness and asking him to comment. I am objecting slightly to you putting speculation in front of a witness and asking him to comment on that. How about that?

11:10 a.m.

Mr. O'Connor: I understand what you are saying, Mr. Chairman.

Let me suggest this to the witness. I have asked you further questions about the communications you had with Ms. Eberts. We have at least come from a position where you could not recall anything that was said between the two of you to one where you have now indicated you may have mentioned to her that you were to advise or you were going to advise Mr. Fontaine to resign if he had to sell those United Sawmill shares. You may have. Is that a fair interpretation of what you said?

Mr. Gagné: Yes.

Mr. O'Connor: Having brought your recollection to that point, I am just wondering whether we can recall anything more. Do you remember what her response was then or what her response may have been to that?

Mr. Gagné: No.

Mr. O'Connor: Do you recall how many times you might have brought that matter to her attention?

Mr. Gagné: No.

Mr. O'Connor: Do you recall anything further about that conversation, what you said and what her reaction might have been?

Mr. Gagné: No.

Mr. O'Connor: On page 3 of your statement, paragraph 4, you indicate, "Ms. Eberts also recommended that his shares in Golden Tiger be either sold or placed in blind trust some time in the future." When did she recommend that?

Mr. Gagné: In July.

Mr. O'Connor: It was obviously a telephone conversation because you met with her only the once, in June. Is that correct?

Mr. Gagné: I was informed.

Mr. O'Connor: You were informed that Ms. Eberts had recommended this?

Mr. Gagné: Yes.

Mr. O'Connor: Did she not tell you that directly?

Mr. Gagné: No.



Mr. O'Connor: Who informed you of that?

Mr. Gagné: Ms. Eberts wrote a letter to René, which was private and confidential, and sent me a copy, in which it was written that eventually he would have to sell his shares in Golden Tiger or put them in a blind trust.

Mr. O'Connor: What was the date of that letter?

Mr. Gagné: July 1985.

Mr. O'Connor: Do you have a copy of that letter?

Mr. Gagné: No. I do not have a copy here.

Mr. O'Connor: Mr. Chairman, can we ask him to produce a copy for us?

Mr. Chairman: You can ask him.

Mr. O'Connor: I think it is the chairman who has to request documentation.

Mr. Chairman: Do you have any objection to making a copy of that letter available to the committee?

Mr. Gagné: It is private and confidential, so you should ask René or Ms. Eberts to lift the private and confidential.

Mr. O'Connor: Yes, but a copy was sent to you, and that is within your control. We are asking whether you will produce it, and I take it you are saying no.

Mr. Pratte: He cannot release it, Mr. O'Connor. It is privileged, you know.

Mr. O'Connor: But your recollection of the contents of that letter is that Ms. Eberts told René to sell his Golden Tiger shares. Is that fair?

Mr. Gagné: Yes.

Mr. Treleaven: Mr. Chairman, on a supplementary: You received a copy of this letter, the original of which was marked "Private and confidential." The copy to you was not under a covering letter, and it was not private and confidential to you. Am I correct? It was the original letter that was.

Mr. Gagné: I got a photocopy.

Mr. Treleaven: That is right, but it was not private and confidential to you. There were no conditions or terms when it was sent to you.

Mr. Gagné: At the top was written, "Private and confidential."

Mr. O'Connor: The point I am getting at is that you recall the letter was dated July 1985. That is important, because Mr. Fontaine told us that no one told him to sell his shares until November.

Mr. Gagné: The letter specifies in the future, "eventually, you will have to sell the shares."

Mr. O'Connor: Did you discuss that letter at the meeting you had in Hearst in July with Mr. Fontaine when you drove him halfway home?

Mr. Gagné: I cannot recall.

Mr. O'Connor: Do you recall the subject of that meeting, other than the Hearst FMA? Did you talk about Golden Tiger?

Mr. Gagné: Golden Tiger was not a subject we discussed often. The value of United is too great compared to Golden Tiger. Golden Tiger, to me, was--

Mr. O'Connor: Peanuts.

Mr. Gagné: Yes.

Mr. O'Connor: On page 4 of your statement, you indicate that, as far as you knew, the deadline for selling the shares was December 31. How did you learn that?

Mr. Gagné: The 1972 guidelines mentioned the end of a year.

Mr. O'Connor: At the end of a year they had to be sold. Did you ever discuss with Ms. Eberts when these shares should be sold?

Mr. Gagné: No, I cannot remember.

Mr. O'Connor: Can you recall whether it is fair to say that the major subject of discussion with her during the telephone conversations, however many there were, was United Sawmill and the Hearst FMA?

Mr. Gagné: If I had known I would be asked, I would have taken notes to refresh my memory. I cannot recall the exact subject of conversation, but it was all about René.

Mr. O'Connor: Can you recall as a general impression whether Golden Tiger was not of great importance to her, as it was not to you? It was not her main concern. Can you recall that?

Mr. Gagné: I do not think so.

Mr. O'Connor: You do not think it was a concern?

Mr. Gagné: No.

Mr. O'Connor: You were really looking for ways to accommodate Mr. Fontaine so he could keep his United Sawmill shares and meet the guidelines. Is that correct?

Mr. Gagné: My role was to protect René's interests in United Sawmill. That is the way I saw it, although it was never implied in black and white. The reason he called me is that he wanted somebody nearby.

Mr. O'Connor: I am suggesting that the reason for the number of contacts, and what you were really concerned about in the course of that summer, was finding some way he could keep his United Sawmill shares and still meet the guidelines.



Mr. Gagné: Probably.

Mr. O'Connor: Was that a subject of discussion with Ms. Eberts?

Mr. Gagné: I cannot recall the exact subjects of my telephone conversation with Ms. Eberts.

Mr. O'Connor: During the summer of 1985 and into the fall, were you aware of the price of Golden Tiger shares? Was it of concern to you?

Mr. Gagné: I never knew the price of Golden Tiger until René put it in the declaration.

Mr. O'Connor: Until when?

Mr. Gagné: Until René put it in his declaration.

11:20 a.m.

Mr. O'Connor: All right. Those are my questions for the time being. I thank you for your patience.

Mr. Warner: Returning to the bottom of page 2 of your statement, I want to clarify a couple of things with respect to United Sawmill. As a result of your meeting at Queen's Park with Mary Eberts, you understood that there were conflict-of-interest guidelines and that René's holding of the shares in United Sawmill would breach those guidelines. Is that correct?

Mr. Gagné: The forest management agreement would breach the conflict-of-interest guidelines.

Mr. Warner: Is it fair to say that, given the information, when you weighed it in your mind, you still thought Mr. Fontaine should not sell his shares in United Sawmill, because it had been a company business for three generations? Is that correct?

Mr. Gagné: Yes.

Mr. Warner: But you understood clearly that he should not hold those shares and be a minister at the same time.

Mr. Gagné: The FMA was only due to be enforced in 1986. He could hold shares of United until 1986, because the FMA did not come in before then. It continued under the old system. The present permit did not change, so he could keep shares of United and not be in a conflict.

Mr. Warner: In point 3, though, you indicate, "During my next meeting with René, I advised him not to sell his shares." That was at the time the old guidelines were in effect. Is that correct?

Mr. Gagné: Yes.

Mr. Warner: Did you have any knowledge at that time that there would be a change in the guidelines?

Mr. Gagné: No.

Mr. Warner: In your mind, you were operating under a certain set of guidelines established in 1972, and in that context you advised him not to sell the shares.

Mr. Gagné: I think my exact words were, "René, do not sell United."

Mr. Warner: What was his response?

Mr. Gagné: I cannot recall, but it was probably positive.

Mr. Warner: He was agreeing with you.

Mr. Gagné: Probably.

Mr. Chairman: Could I clarify here? In your statement and in answering previous questions, you said he would have to sell his shares in United Sawmill if the forest management agreement came into force, but you had not said he would have to sell if there were no FMA. Is that right?

Mr. Gagné: Would you repeat the question?

Mr. Chairman: The distinction is that several people, you, Ms. Eberts and Mr. Wright, said that if this FMA were signed and finalized, that event would cause him to have to sell his shares.

Mr. Gagné: Yes.

Mr. Chairman: Up to that point, he would not have to sell his shares.

Mr. Gagné: No, not under the 1972 guidelines.

Mr. Chairman: In your opinion, under the 1972 guidelines, he could still own the shares, but if an FMA were signed, he would have to sell them. That was your advice.

Mr. Warner: Do you believe that the conflict-of-interest guidelines were changed in order to accommodate Mr. Fontaine's difficulties?

Mr. Gagné: I was not a participant in any discussion about changing the guidelines.

Mr. Warner: Could you venture an opinion? If you look at what transpired--

Mr. Gagné: I was in Kapuskasing. René was in Toronto. Then we were both in Toronto. I had nothing to do with it.

Mr. Chairman: Mr. Warner, you are faster than Mr. O'Connor, but you are on the same turf in asking a witness to speculate on something about which he has very little knowledge.

Mr. Warner: Yes. I acknowledge that.

Mr. Chairman: You are quicker, but you are on the same thought.

Mr. Warner: I prefer direct questions rather than leading witnesses.

I have no further questions at this time.



Mr. Treleaven: You stated there was only one meeting with Mr. Wright. At that meeting with him and with meetings with Ms. Eberts and telephone conversations, was the Legislative Assembly Act ever discussed? You have mentioned René's resigning as a minister, but was there any discussion about the Legislative Assembly Act, which deals with a member?

Mr. Gagné: No. The only subject discussed with Mr. Wright was the forest management agreement.

Mr. Treleaven: Were there any discussions with Ms. Eberts regarding his duties as a member of the assembly?

Mr. Gagné: I cannot recall.

Mr. Treleaven: Could you help me out with FMAs? You are a chartered accountant up in the country of timber and FMAs. The impression I have from what I heard here today and what I heard two or three weeks ago is that FMAs are, at best, a two-edged sword and perhaps an almost guaranteed money loser. I am having trouble with logic on that. Are FMAs generally not a business transaction that has the potential for profit?

Mr. Gagné: What the profit will be depends on how you manage the forest.

Mr. Treleaven: If you are a good businessman and a good manager, you can make good profits.

Mr. Gagné: At present, the Ministry of Natural Resources is spending X amount of dollars. It will probably take this X amount of dollars and give it to the lumber companies. The lumber companies will most likely put some more in and get better results. That is the way I see it. When the lumber companies accept the FMA, it is because they want to do a better job. The public is spending more money.

Mr. Treleaven: Is there not an element to these FMAs that they have a guaranteed supply of lumber? These contracts are for one year, for five years and they can be in perpetuity. Is not a guaranteed supply of lumber on a huge area worth quite a bit in the future?

Mr. Gagné: United Sawmill already has its allocation of lumber--56,000 cords per year.

Mr. Treleaven: Through the timber licenses.

Mr. Gagné: Yes.

Mr. Treleaven: Does the FMA not give a further---As I understand it, the timber licenses are for one, two, three or five years.

Mr. Gagné: If the lumber companies behave.

Mr. Treleaven: Yes. An FMA can be more perpetual. It can go for a much longer period.

Mr. Gagné: All right.

Mr. Treleaven: I am having trouble and I continue to hear they are almost a collar around one's neck. To me, in logic, as a person who has been in business, they are something that has the potential of being a valuable asset to a corporation or an individual.

Mr. Gagné: Let us leave it that the definition of an FMA is that the lumber companies will spend more money than the ministry and will probably get better results. We are speculating. There has been none in Hearst.

11:30 a.m.

Mr. Treleaven: Thank you. I refer to Hansard, the record of this committee, two weeks ago. I will put it into context. Mr. Fontaine was saying how busy he was until late in the fall. He said:

"They changed the deputy minister in August. I had no parliamentary assistant and only a young secretary, who came from North Bay. She arrived only at the end of July. I had a young man from London working for me for a while. I was alone. Then my friend André Gagné told me: 'I am going to help you. I am going to take care of that.' He was the one who was supposed to discuss this with Mary Eberts and do all this."

He went on to say he was very busy at other things.

Is it correct that you volunteered and said, "I am going to take care of this for you"?

Mr. Gagné: No. If you are talking about all his affairs, then no, it is not correct.

Mr. Treleaven: Were you contacted first? Did somebody else make the initial contact with you and ask you to help René, or did you volunteer?

Mr. Gagné: He phoned me on June 9 at two o'clock in the afternoon.

Mr. Treleaven: Yes. You have that in your statement about the meeting the next day in Toronto.

Were you a volunteer or were you acting in your capacity--I will not say "for him." When you were dealing with this, were you acting as a volunteer or a long-time friend, or were you acting as a chartered accountant involved in this?

Mr. Gagné: Friend. You do not phone an office of a chartered accountant at two o'clock and say, "Take the plane at 4:30 and come and help me," 525 miles away.

Mr. Treleaven: So you were an unpaid friend. You did not render any account as an accountant for your services in this?

Mr. Gagné: No.

Mr. Treleaven: We are talking now about the summer and early fall of 1985. Mr. Fontaine mentioned in testimony here that "Mr. Gagné was trying to decide which of my assets should be sold, and which should be put in blind trust." He later says, "I, on the other hand, having left it all up to him, was travelling and working night and day and so on." Do you agree with his words "having left it all up to him"? Were all these decisions left up to you? Did you accept that as your responsibility?



Mr. Gagné: No. René may think so, but that was not my role.

Mr. Treleaven: In fairness, he may have thought it was up to you, but that was not your understanding.

Mr. Gagné: Correct.

Mr. Treleaven: He also says in that same statement: "Mr. Gagné was trying to decide which of my assets should be sold, and which should be put in blind trust. I now realize, and I think that Mr. Gagné himself would agree, that he may have been out of his depth in trying to advise me on how to comply with the guidelines."

Do you agree that you were out of your depth, that you felt you were out of your depth or that you were in unfamiliar territory?

Mr. Gagné: No.

Mr. Treleaven: Fine; thank you. There was judgemental work there. He is indicating judgemental work going on. I take it you would agree it was sort of judgemental. You were making a decision rather than doing just mechanical accounting. It was not mechanical accountant's work you were doing?

Mr. Gagné: No.

Mr. Treleaven: You were doing a judgemental kind of work.

Mr. Gagné: Okay.

Mr. Treleaven: That is fine. Thank you, Mr. Chairman.

Mr. Sterling: Mr. Gagné, you have mentioned several times in your statements today that in your June 9 meeting with Ms. Eberts and perhaps in your subsequent telephone conversations, the 1972 guidelines--were you given a copy of the guidelines?

Mr. Gagné: Yes.

Mr. Sterling: You were given a copy of the guidelines?

Mr. Gagné: By Ms. Eberts.

Mr. Sterling: By Ms. Eberts at that time. Was Mr. Fontaine also given a copy at that time? Was he at the meeting?

Mr. Gagné: He was at the meeting with Ms. Eberts at 10 o'clock.

Mr. Sterling: So presumably she had several copies to give. Okay.

In point 3 on page 2 of your statement you mention, "During my next meeting with René...." Were there subsequent meetings with Mr. Fontaine after this particular meeting you had him?

Mr. Gagné: When you say "particular meeting," which meeting are you referring to?

Mr. Sterling: You said, "During my next meeting with René," under point 3 on page 2, and you told us that entailed a drive halfway to Hearst. How far away is Hearst?

Mr. Gagné: Sixty miles.

Mr. Sterling: You had about half an hour with him. Have you had subsequent meetings with Mr. Fontaine since that time?

Mr. Gagné: Not during the summer of 1985. René was hard to reach. I live in Kapuskasing, and he lives in Hearst.

Mr. Sterling: Right.

Mr. Gagné: He was home on weekends only.

Mr. Sterling: But you had subsequent meetings in the fall and in the spring of 1986?

Mr. Gagné: I do not think I have seen René in January, February and March of 1986. I do not think I have seen him.

Mr. Sterling: Since that time?

Mr. Gagné: No. I do not think I have seen René in January, February and March.

Mr. Sterling: Did you see him in the fall of 1985?

Mr. Gagné: Yes. He phoned me one day and said to make the necessary contact to get the blind trust organized.

Mr. Sterling: During that period of time, or subsequent to that time, did you meet with him to discuss business matters of United Sawmill?

Mr. Gagné: No. He stayed away. From the information I had, he stayed away from United.

Mr. Sterling: You must have met with him, however, to prepare his income tax return.

Mr. Gagné: No.

Mr. Sterling: You prepared that without any--

Mr. Gagné: His wife brought me the envelope.

Mr. Sterling: You did not have any personal discussion with him about his income tax return?

Mr. Gagné: No. I had been talking to him about another tax deduction in his T-4 from the province which seemed irregular.

Mr. Sterling: Okay. That is fine.

You mentioned in point 6 on page 3 that you had recommended Mr. Cloutier be hired as a consultant for Canada Trust. You have known Mr. Cloutier for some period of time, I presume.

Mr. Gagné: For years. I was associated business-wise. He was the manager of United Sawmill from 1968 to the end of 1985.



Mr. Sterling: Is he no longer the manager?

Mr. Gagné: He is retired. Now he has found another job. He is the manager of the FMA company.

Mr. Sterling: Do you also do the accounting work for the FMA company, Hearst Forest Management Inc.?

Mr. Gagné: They have not had a fiscal year yet.

Mr. Sterling: They have not had a fiscal year.

Mr. Gagné: We have been appointed auditor.

Mr. Sterling: You are the auditor of that company as well. I presume Mr. Cloutier is not only a business partner but also a friend of Mr. Fontaine.

Mr. Gagné: In the lumber business, you can have a wide swing of profits and losses. You can make \$2 million one year and lose \$1.5 million the next year. I was a bit concerned with the power of Canada Trust. Maybe somebody with very little experience would have sold the shares; so I talked to Canada Trust, and I said: "What you should have is an adviser who is very competent." I recommended Mr. Cloutier, and they accepted it. They made him sign a declaration that he would not divulge anything to René.

Mr. Sterling: Mr. Cloutier is the same gentleman Mr. Fontaine appointed to the Northern Ontario Development Corp., is he not? Or are you aware of that?

Mr. Gagné: I know he received an appointment. Most likely.

Mr. Sterling: That comes under Mr. Fontaine's ministry as well, does it not?

Mr. Gagné: I do not know the answer.

Mr. Sterling: Mr. Cloutier has been hired as a consultant to Canada Trust. Mr. Cloutier also owns shares in United Sawmill, does he?

Mr. Gagné: No. He sold them two or three years ago.

11:40 a.m.

Mr. Sterling: I see. He is acting as a consultant to Canada Trust, controlling a significant number of shares of United Sawmill and acting as--is he president of the Hearst FMA company, or is he just--

Mr. Gagné: I phoned Roland Cloutier before I left, and he said he does not have any shares in the FMA.

Mr. Sterling: There is only one share for the two--I think I can clarify that--United owns one share and Lecours owns one share; it is a 50-50--

Mr. Gagné: I have not seen it.

Mr. Sterling: I think that is the way it is, as a matter of interest to you.

You mentioned there was written correspondence between Ms. Eberts and Mr. Fontaine in July 1985 and you received a copy of it. Was there any other further written material between Ms. Eberts and Mr. Fontaine that you are aware of?

Mr. Gagné: I did not get a copy.

Mr. Sterling: You did not get a copy. That was the only letter you received?

Mr. Gagné: I remember a conversation where I said to René to talk to Ms. Eberts because they were both in Toronto.

Mr. Sterling: I was just wondering if there was anything else written down at all.

Mr. Gagné: I did not get a copy.

Mr. Sterling: You yourself never wrote Mr. Fontaine in terms of confirming your advice to him in any way, shape or form?

Mr. Gagné: No.

Mr. Sterling: There was a whole number of companies Mr. Fontaine was involved in that merged into United Sawmill. Were you the accountant for all those companies as well?

Mr. Gagné: Yes.

Mr. Sterling: Did you make the corporate returns, or did the lawyer do that for them?

Mr. Gagné: We do the income tax returns for the corporation, but there is only one left, United; all the others have been amalgamated into one.

Mr. Sterling: You ceased to file tax returns after--when was the amalgamation? It was about 1981; is that correct?

Mr. Gagné: You are probably right.

Mr. Sterling: Did you have any discussions with Mr. Bourgeault, who I understand is Mr. Fontaine's lawyer, about the conflict-of-interest guidelines?

Mr. Gagné: No. In January 1986, I telephoned Mr. Bourgeault. When I got the copy of the blind trust agreement, I gave it to Mr. Bourgeault and said, "Make sure everything is in good shape."

Mr. Sterling: You mentioned in here that you were not aware of the other assets Mr. Fontaine had in his possession.

Mr. Gagné: Yes.

Mr. Sterling: Normally, when you go to borrow money, a banker would ask you for a balance sheet or a personal financial statement. Did you ever have the opportunity of doing that service for--

Mr. Gagné: René never prepared a personal balance sheet. If one was prepared, it was probably prepared by the banker, but I am not aware of one. His major asset was United.



Mr. Sterling: How big a company is United Sawmill? I do not think Mr. Fontaine told us. Do you know how many people?

Mr. Gagné: I will take a guess: about 225.

Mr. Sterling: In people total?

Mr. Gagné: Employees.

Mr. Sterling: Is that all there is? I thought it was a much larger company.

Interjection.

Mr. Morin: That is 225 out of a population of 5,000.

Mr. Sterling: Did you say 225? I thought you said 25. I am sorry; I thought I had read that it was about 150. It is a fairly substantial undertaking then.

Your concern in recommending Mr. Cloutier as a financial adviser was that Mr. Cloutier would be very loath to sell the shares of United to someone else; is that correct?

Mr. Gagné: And to trust to have good advice.

Mr. Sterling: But that was your concern, was it not?

Mr. Gagné: Yes.

Mr. Sterling: That they would sell the shares?

Mr. Gagné: Somebody by lack of experience may have sold the shares.

Mr. Sterling: You did not feel that Mr. Cloutier would do that?

11:50 a.m.

Mr. Gagné: No. If Mr. Cloutier would recommend the sale of shares it was because he was taking--he is of the same opinion as I am, that you do not sell a business of three generations easily.

M. Villeneuve: Est-ce correct si on s'adresse à vous en français, Monsieur Gagné?

M. Gagné: Oui.

M. Villeneuve: Nous avons la traduction simultanée.

Pour poursuivre la période de questions de M. Sterling, vous avez mentionné à peu près 225 employés. Monsieur Fontaine nous a dit qu'il avait employé jusqu'à 300 personnes dans différentes compagnies. Alors, je crois que votre réponse est certainement valable.

Quand vous avez suggéré à M. Fontaine, initialement, qu'il se détasse de ses actions dans United Sawmill--United Sawmill pour vous est très cher, c'est la compagnie familiale de la famille Fontaine, etc.--est-ce que ça avait l'air de troubler ou affaiblir M. Fontaine considérablement à ce moment-là?

M. Gagné: J'ai l'impression que j'ai dit que les conseils que j'ai donné à René concernant la vente de United étaient exactement ce qu'il voulait entendre.

M. Villeneuve: La deuxième question qui suit, nécessairement, serait: il voulait entendre ça de vous ou d'un avocat. En quel honneur?

M. Gagné: Pourquoi m'a-t-il appelé?

M. Villeneuve: D'après vous, était-il en train de négocier quelque chose et il voulait entendre ça?

M. Gagné: J'ai probablement exprimé, avec des mots, ce que lui pensait.

M. Villeneuve: Alors, vous avez peut-être confirmé certaines de ses questions, de ses peurs si vous voulez. Ça l'inquiétait?

M. Gagné: Là, on entre dans un champs où on devine ce que René pensait.

M. Villeneuve: Je vous demande votre impression.

M. Gagné: Mon impression est que René--: "André, il ne faut pas que tu me fasses vendre mes parts". C'est mon impression. C'est pour cela qu'il m'a appelé.

M. Villeneuve: Alors, c'est très cher pour lui aussi, la compagnie--

M. Gagné: Lorsqu'on est sorti du bureau de Mme Eberts, on est allé dîner et on en a parlé. Avec René tout n'est pas tellement clair.

M. Villeneuve: Nous avons réalisé ça. Mais par contre, vous avez insisté auprès de lui, à de nombreuses reprises, à l'effet qu'il y avait une forte possibilité qu'il lui faudrait faire quelque chose avec United Sawmill avant le 31 décembre, à moins que les grandes lignes soient changées.

M. Gagné: Oui.

M. Villeneuve: On revient à l'entente ou au contrat gestion forestière, le FMA. D'après M. Fontaine, et d'après ce qu'il nous a dit qu'un FMA était très important pour la région de Hearst et puis certaines rumeurs nous disent qu'à un certain moment, il aurait peut-être démissionné du Cabinet.

Est-ce qu'il était au courant des implications à ce moment-là. Des implications du fait qu'il était le ministre en charge ou du moins indirectement peut-être en charge, certainement qui contrôle les affaires du nord et puis les répercussions possibles?

Mr. Mancini: Mr. Chairman, on a point of order: I do not believe Mr. Fontaine was ever directly in charge of the forest management agreement. It was through the Ministry of Natural Resources. I understand your question, but I think we are left with the wrong impression.

Mr. Villeneuve: Fine. It was under the Ministry of Natural Resources. However, I believe the Ministry of Northern Development and Mines has something to say about that.

Mr. Mancini: It was not under his personal jurisdiction.



Mr. Villeneuve: No, but I believe he also sits at the same cabinet table.

Est-ce que d'après-vous, M. Fontaine--le fait qu'il poussait très fort pour obtenir le contrat de gestion forestière pour Hearst, est-ce qu'il réalisait que l'eau devenait chaude en autant qu'il était assis à la même table de Cabinet que le ministre responsable?

M. Gagné: Selon mon opinion, non.

M. Villeneuve: Il n'était pas au courant?

M. Gagné: Non. Là, on commence à deviner ce que René pensait. Moi je suis à Kapuskasing et lui à Toronto.

M. Villeneuve: Hearst Management Incorporated, la compagnie Fontaine Lumber Timber, Polar Lumber, F & G Fontaine, Joanis, etc. toutes des compagnies qui sont très bonnes administratrices des nombreux acres qu'ils ont dans le nord ontarien, les droits de coupe.

M. Gagné: Les droits de coupe, c'est différent de l'acrage.

M. Villeneuve: Le droit de coupe.

M. Gagné: 56,000 cordes.

M. Villeneuve: 56,000 cordes avec environ 42,000 acres plus ou moins.

M. Gagné: L'acre n'est jamais mentionné dans nos discussions. Quand ceci est discuté--

M. Villeneuve: 56,000 cordes.

M. Gagné: Avec les gens de la foresterie, on discute en termes de cordes.

M. Villeneuve: Est-ce que d'après vous le droit de coupe qui se renouvelle annuellement, à tous les trois ans finalement, est-ce que ça dérangeait M. Fontaine le fait que ses compagnies étaient impliquées?

M. Gagné: Allons au commencement. Vous avez référé deux fois à ses compagnies. Il y a seulement une compagnie, United Sawmill.

M. Villeneuve: Seulement une compagnie. Mais il ne faut pas oublier que M. Fontaine nous a dit, assis à la même chaise où vous êtes, qu'il avait fait des demandes sous de nombreuses compagnies qui n'existaient plus, par rapport que le ministère lui demandait de le faire de cette façon-là.

M. Gagné: Oui, il a dit ça. Les compagnies amalgamées, il y en a sept, je pense.

M. Villeneuve: Plusieurs.

M. Gagné: C'est comme si ça arrivait qu'elles se joignaient ensemble. L'autre est encore là, mais elle n'est plus distincte. Donc, quant à moi, Deep Forest vit encore. Deep Forest vit encore, mais à travers United.

M. Villeneuve: Deep Forest était une des compagnies entièrement de la famille Fontaine?

M. Gagné: Non. Charles Lecours.

M. Villeneuve: Par contre, est-ce que ça dérangeait M. Fontaine, le fait que le droit de coupe devait être renouvelé à un certain moment et puis, il était un des actionnaires principaux, peut-être en fiducie sans droit de regard, mais --

M. Gagné: Je ne pense pas. Personnellement, je n'ai jamais été impressionné par le FMA, parce qu'ils ont 56,000 cordes. Ils l'ont toujours eu et ils vont toujours l'avoir.

M. Villeneuve: Alors, d'après vous, le contrat de gestion forestière est secondaire.

M. Gagné: Oui.

M. Villeneuve: Même si ça garantit une liquidité peut-être ad infinitum?

M. Gagné: Oui, parce qu'ils l'ont présentement ad infinitum. En quelle année Noé Fontaine est-il arrivé dans le Nord? C'est depuis ce temps-là qu'ils ont des--

M. Villeneuve: 1922, je crois, qui a été mentionnée.

M. Gagné: 22 à 86, 64 ans.

M. Villeneuve: Ce que j'ai toujours eu de la difficulté à comprendre, c'est que plusieurs compagnies demandent du gouvernement des contrats gestionnaires forestiers. M. Fontaine a même fait certaines remarques qu'il aurait démissionné s'il ne l'obtenait pas. Ça m'étonne que vous me dites que c'est secondaire et puis que ça n'a pas trop de valeur.

M. Gagné: C'est mon opinion. Ils les ont les cordes aujourd'hui. Puis le département voulait donner des responsabilités; ces gens-là vont les prendre, puis vont se dire, on va faire mieux encore. Ils vont dépenser plus d'argent qu'ils vont en recevoir pour avoir une meilleure production dans trente-quarante ans.

M. Villeneuve: Mais les contrats de gestion forestière vont donner l'occasion de construire des chemins à travers la forêt?

M. Gagné: Oui.

M. Villeneuve: Subventionnés par les contribuables?

M. Gagné: Non. Je ne sais pas de quelle manière ça va être subventionné. Il n'y a pas de passé.

M. Villeneuve: Dans les cinq ou dix discussions que vous avez eues avec Mme Mary Eberts, le problème était toujours pour vous la position de United Sawmill vis-à-vis René Fontaine, personnellement, comme ministre des Affaires du Nord.

M. Gagné: Oui.



M. Villeneuve: M. Fontaine était au courant que vous étiez très inquiet de sa situation.

M. Gagné: Oui, je le lui avais dit: ne vends rien, tiens-toi loin.

M. Villeneuve: Mary Eberts lui a suggéré de vendre?

M. Gagné: Non. Mary Eberts a dit: "éventuellement, il va falloir que tu vendes tes actions de Golden Tiger ou que tu les places dans une fiducie sans droit de regard".

M. Villeneuve: Mais pour René Fontaine, Golden Tiger était quelque chose qui s'adonnait à lui appartenir mais qui, pour lui, était pratiquement insignifiant?

M. Gagné: Oui.

M. Villeneuve: On revient à United Sawmill.

M. Gagné: Oui.

M. Villeneuve: Mary Eberts lui aurait suggéré de vendre avant que les règlements soient changés.

Mr. Morin: Mr. Chairman, I think that question should be referred to Mary Eberts. He cannot speculate. It is Mary Eberts who should answer the question when she appears before the committee.

Mr. Chairman: I would agree that you would obviously want to ask her that question. I would let it stand on the basis that he is talking now about a meeting that he had with Mary Eberts and René Fontaine. I would let it stand on that basis.

Mr. Villeneuve: There were five or 10 conversations, and I just want to establish the fact that for this gentleman this was his main concern and he was expressing them. I am just trying to look into what possible impressions were left with him after discussions on five or 10 occasions with Mary Eberts.

Mr. Chairman: Yes. I think it is a reasonable question.

Mr. Gagné: Excuse me, Mr. Chairman. We are going back again to the five and 10 as being positive figures.

Mr. Villeneuve: Well, two or seven.

Mr. Gagné: Okay. Mary Eberts, à la première réunion, le 9, a dit à René que s'il était nommé ministre, probablement que le FMA lui causerait des problèmes et faudrait qu'il vende ses parts. Elle l'a mentionné "casually".

M. Villeneuve: D'après elle, il n'y avait aucune façon de contourner ça à ce moment-là?

M. Gagné: Oui. M. Wright a dit la même chose "casually", comme si ce n'était rien de grave.

M. Villeneuve: A Hearst, vous avez plusieurs compagnies de bois? United Sawmill serait une des plus grandes, une de celles qui emploient le plus grand nombre de personnes?

M. Gagné: Pour répondre à votre question, je vais me baser sur le nombre de relèves qui travaillent au moulin. Il y a deux relèves. United, je pense, a une relève et demie, puis Lecours une relève; mais ça ne veut pas dire grand chose, parce que ça dépend de la qualité de ton moulin. Si tu as un bon moulin, une relève et demie est aussi bonne que deux relèves. Pour savoir la différence grosseur de chacune des compagnies, il faudrait que tu ailles voir le nombre de cordes qu'elles ont.

M. Villeneuve: Le droit de coupe?

M. Gagné: Oui. Ça déterminerait pas mal: un, deux, trois.

M. Villeneuve: Et puis quand on parle, sur la rue à Hearst, si quelqu'un travaille pour United Sawmill, il va vous répondre: "Je travaille pour Fontaine".

M. Gagné: Là, ça fait vingt ans que je suis parti de Hearst.

M. Villeneuve: Il semblerait, d'après ce que M. Fontaine nous a dit, que United Sawmill, en fin de compte, Deep Forest et les autres, on travaille pour Fontaine et ça finit là.

M. Gagné: René aime penser cela.

Mr. Villeneuve: Thank you, Mr. Chairman.

Mr. Chairman: Are there other questions members want to pursue with this witness? It is 12 o'clock. We can break now, or if you have other questions and they are relatively short, perhaps we should finish with this witness this morning and go on to other business this afternoon.

Mr. Treleaven: I need five minutes perhaps. Mr. Gagné, you were the accountant for these--I understand there were seven companies that amalgamated into United in 1981, and you sort of confirmed it. It was probably 1981. Did you ever do any accounting work for any of these seven companies after the amalgamation?

Mr. Gagné: No. You do not have to.

Mr. Treleaven: My question is, did you do any work for them after that time? I understand what an amalgamation agreement and what amalgamating corporations means. You mentioned the creeks and the river. We have been reading from the same law books.

Mr. Chairman: I get the feeling this law book has cartoons in it.

Mr. Treleaven: Did you do any accounting work for any of these seven companies after the amalgamation?

Mr. Gagné: They were amalgamated on November 30, 1981. We must have prepared a financial statement for the year ended November 30, 1981, and we must have prepared after. We must have filed a tax return, and this was done after. As to the accounting books and records of Deep Forest and the others, there were none after.

Mr. Treleaven: There were none after the end of that fiscal year, so you would not have done any corporate tax returns beyond the end of that



fiscal year. Did you ever hear of them after that, or were any of those seven companies discussed as doing business after that amalgamation, after the end of that fiscal year?

Mr. Gagné: The only time these names were mentioned was when we were referring to the location of the timber limits. For instance, Deep Forest is over here and Arrow is over here. The name was used for identification purposes only, in my presence.

Mr. Treleaven: Not in a business sense or an assets sense?

Mr. Gagné: No.

Mr. Treleaven: You have no information as to those corporations getting timber licences or applying for timber licences or being awarded after amalgamation?

Mr. Gagné: No. It was the same 56,000 cords.

Mr. Treleaven: You did not know in the name of what corporation?

Mr. Gagné: No. In Hearst, the lumbermen are very sensitive about timber licences. They wish to keep the disturbance, changing of licence, to a minimum. It has been this way over the last 20 years.

Mr. Treleaven: And therefore--

Mr. Gagné: It was very easy for them to keep the timber licences in the old name. It does not change anything. It is easy for identification purposes--the location of the timber licence.

Mr. Chairman: Are there any further questions? Mr. Gagné, we thank you for appearing before us this morning.

The committee recessed at 12:05 p.m.

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M-23

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

TUESDAY, AUGUST 12, 1986

Afternoon Sitting





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

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Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Martel

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Tuesday, August 12, 1986

The committee resumed at 2:05 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We have an indication that we will have some motions put.

I do not have any further information on updating of documents requested. As far as I know, the status is still the same as this morning. Everything we have asked for is either in our hands or on its way. We did agree we would not copy all the record books, but we would make them available to anybody who wants them. That will be the status of them.

Mr. Mancini: I want to make sure Mr. Treleaven reads them all.

Mr. Chairman: As I noted this morning, one exception is Mr. Martin and the documents from Golden Tiger. Polar Lumber is the other set. We have not been able to reach this person as yet.

Do you want to put your motion now, Mr. Sterling?

Mr. Sterling: No. Arising out of the testimony this morning, when we found out for the first time that Mr. Cloutier was hired as an agent for Canada Trust and was a former business associate of Mr. Fontaine, I would like to get a copy of the agency agreement between the trust company and Mr. Cloutier to understand what that relationship is in terms of Mr. Cloutier's role in managing Mr. Fontaine's business matters regarding United Sawmill.

Mr. Chairman: Specifically, what are you asking for?

Mr. Sterling: I imagine there is an agency agreement or a consulting agreement between Cloutier and the trust company.

Mr. Chairman: This is between Canada Trust and Mr. Cloutier.

Mr. Sterling: I imagine such an agreement would have to exist.

Mr. Chairman: What is his first name?

Mr. Sterling: Roland.

Mr. Chairman: Are we in agreement that we will try to get that document? Is there any objection from anyone?

It would help matters a bit if you would be more specific, but if it is agreeable that we leave it in general terms until we can see what kind of documentation exists and what we can get simply by asking for it, we could pursue it that way. If we wanted to get a little more aggressive about it, we would have to be a little--



Mr. Sterling: I do not know whether there is agreement. He said in his statement that he had recommended Cloutier be hired as a consultant. I believe these were the words he used. I do not know what kind of arrangement Canada Trust worked out with Cloutier, but however that arrangement was reduced to paper, that is what I would like to see.

Mr. Chairman: Okay. Good enough. Are we in agreement that we will try to get that information?

Mr. Mancini: No, we are not in agreement. I do not understand what Mr. Sterling is after. I am not so sure it was such a surprise that Mr. Fontaine's accountant would advise that someone familiar with the forest industry should be on hand to assist Canada Trust, which may have no familiarity at all with the forest industry. I am not so sure it is such a surprise that these people would have to talk to someone expert in the field.

I am not sure what Mr. Sterling is after. We just keep demanding documents and more documents. If there is something specific and relevant that he hopes to accomplish by this, we would be happy to hear it. As far as we are concerned, we are just about at an end as far as paper being provided to us is concerned.

Mr. Chairman: I do not have consensus to proceed with that. If it were in the form of a motion, then I would. It will be of some assistance to me if you can give some thought to exactly what you want and give us a little bit of notice on the motion. That might be a better way to proceed. Are there other matters you want to raise?

Mr. Sterling: Yes. Perhaps I can put that motion over until tomorrow. I am quite willing to move it then, because I do not think a day is going to make any difference in our receiving that information.

My reason is that this government watered down the guidelines between June and September 1985. I want to know how further watered down the arrangement has been in terms of the blind trust that was set up by Mr. Fontaine. Was it a sham blind trust that was set up? If he has his pal or his business partner running United Sawmill on his behalf, is it a blind trust?

As evidenced by Mr. Gagné this morning, it seems to me that Roland Cloutier was put in there because he would not sell the shares of United Sawmill, because of the concern of Mr. Fontaine's family. As I understand it, a blind trust gives shares to the trustee. He or that company is to determine whether to sell, buy or deal with those shares in any way. That is why I am arguing for that document.

Mr. Chairman: Let me caution you here. I could be wrong, but I sense in the committee--I do not mind more trawling and fishing expeditions, but we have three feet of paper now. If you want more paper, tell us exactly what you want or give us as close to a definition of what you want as you can, and put it in the form of a motion. That would be received a little more favourably by the group.

Mr. Sterling: I will put that forward tomorrow.

There are four procedural matters that I want to deal with. First, Ms. Eberts and Mr. Bourgeault are both solicitors who have acted in one fashion or other for Mr. Fontaine. Mr. Chairman, I will mention to you and to the clerk that we should write to those lawyers and ask them, before they appear, to get

from Mr. Fontaine a waiver of the solicitor-client relationship. That was just after our hearings before. I do not know whether you recall our conversation.

Mr. Chairman: I do not.

Mr. Sterling: In any event, I am asking that be done before they appear so there will not be any problem. I understand Ms. Eberts did that in the Caplan affair. She did get a waiver from the member for Oriole (Ms. Caplan) before she came before the committee. I just do not want to get hung up on those two witnesses.

Mr. Chairman: I have no problem with that.

Mr. Mancini: A lot of that is going to have to depend on Mr. Fontaine and whether he wants to give up that relationship. For a lawyer to mention so casually that a lawyer's client should so casually give up the client-lawyer relationship is really surprising to me.

Mr. Chairman: That is not what I heard. I heard a request from a member of the committee that we put in writing a request that they come before the committee to appear voluntarily as witnesses and that they seek the concurrence of their client in doing so. That is my understanding.

Mr. O'Connor: Further, that they seek their client's permission to discuss things openly. That is a waiver of the normal solicitor-client relationship that would have existed, which Ms. Eberts sought and got from the Caplans.

Mr. Chairman: I have no problem in writing this letter. I am just going to tell you now that she may well tell us to take a hike.

Mr. Mancini: I do not know what is going on in the Caplan committee, because we have been tied up here and elsewhere. I am not so sure what the relationship was between the lawyer and Ms. Caplan in the other committee or why such a waiver was given. Frankly, I am surprised that two practising lawyers could so casually recommend that we write a letter and have the lawyer and the client give up this lawyer-client relationship that you people hold sacred. You really do.

Mr. O'Connor: All she has to do is say no. If she has something to hide, that is fine.

Mr. Chairman: Excuse me.

Interjection: That will be the accusation.

Mr. Morin: Is that an accusation?

Mr. Chairman: That may be a very expensive wisecrack. I have heard a suggestion that the chairman of the committee write a letter asking that they appear under those conditions and that they waive the normal client-solicitor relationship. I thought it a reasonable request. I hear some opposition to it; so it is going to have to come now in the form of a motion.

Mr. Sterling: When are Mr. Bourgeault and Ms. Eberts scheduled to appear?

Mr. Chairman: Mr. Bourgeault is scheduled for Thursday, August 21,



in the morning. Ms. Eberts originally was on Tuesday morning; we have had a request from her to try to do it Monday afternoon.

Mr. Sterling: Presumably we could do those tomorrow as well in the motion.

Mr. Chairman: That would be reasonable.

Mr. Sterling: Okay. The other procedure--I did not expect to have to put all these in motions, and I am sorry for not being prepared for that--the other one was when Mr. Tworzyanski--

Mr. Chairman: You need a good lawyer.

Mr. Sterling: Sometimes it is good to have a vote. Mr. Tworzyanski appears tomorrow. Would you or the clerk be kind enough--we received a copy of the licences. I would like him to bring those files in terms of the application and the actual licence because, while there is a summary of information, all the information is not in the summary as per I would like it. If we are asking about specifics, I would prefer for him to have those files here so he can answer them.

Mr. Chairman: I do not see any problem in requesting him to bring files present. You want the actual application and the actual licence?

Mr. Sterling: Yes.

Mr. Chairman: Would he have the actual licence? Would the licence not have been given to the person who applied for it?

Mr. Sterling: There would be a copy of it.

Mr. Chairman: A copy would be enough? We can make that request unless I hear some dissenting opinion. Are we in agreement that we would make that request of him?

Mr. Mancini: We are not going to object. It is a big fishing expedition, but let him bring the documents.

Mr. Chairman: What else do you have in mind, Mr. Sterling?

Mr. Sterling: The next matter is in relation to the Blake Cassels report.

Mr. Chairman: This is the notice of motion you gave us this morning?

Mr. Sterling: Yes.

Mr. Chairman: Let me start by saying that I appreciate we had some notice on this. I did have an opportunity to look at what transpired in the standing committee on public accounts. I have not, to tell you the truth, gotten all the information I would like to have. For example, one of the things that occurred to me, since this report--basically our knowledge of it stems from newspaper reports, not that they are not accurate, but I was searching for the exact terms of reference for the Blake Cassels report, and I do not have them. I have a quotation or two from a newspaper. I have asked the clerk to get hold of the Premier's office and give us the terms of reference for it.



One of the problems is in trying to determine whether this motion would be in order. It is a little tough to do that when I do not know what is in the report. I assume that the newspaper report is correct and that it is a general audit of sorts done by Blake Cassels--I assume that because it is generally their line of business--and that it involves all members of cabinet. I do not know whether that report would even cover Mr. Fontaine at this point in time, because when the report was set forward he was at that point in time not any longer a member of the cabinet.

My problem is that until I know exactly what is in that report, what are the terms of referece for it, I cannot rule whether that is properly before the committee now. If Mr. Fontaine is named in the report, that would make it part and parcel of this committee's business, because that matter has been referred to us.

Mr. Treleaven: Mr. Chairman, from your own mouth, that is the very reason to get it: so you can discover whether it is something we should be seeing.

2:20 p.m.

Mr. Chairman: Thank you, no. First, I will try to determine whether Mr. Fontaine and his business is contained within that study. If that is the case, I think I would be very happy to entertain this. I am begging for a little bit of time, and I am going to get it one of two ways. Either you will be gentlemanly about this and let me think about it overnight, or I will listen to your arguments and then I will ask for a bit of time to make my ruling. Whichever way you want it, that is what we will do.

There is not a major problem. As you are aware, another committee has asked for the report and it is under consideration as to whether it will be released. It seems to me to be fairly obvious that if the report goes to one committee, it will come to this one as well.

Mr. Sterling: In addition to our dealing with the Fontaine matter, this committee is also charged at a later date with looking at this very report. Therefore, if an outstanding motion is in front of the standing committee on public accounts at this time, it would be inappropriate that it receives the report before this committee receives the report, which we are going to consider.

So it has a dual purpose. Number one is to find out if some facts relating to Mr. Fontaine are there. Each day we let go by denies the committee members the opportunity of using that information in asking witnesses about particular facts that might contained therein. Second, the report would also be divulged to this committee, perhaps first-hand, as we expect it to be divulged to this committee.

I do not understand the reluctance of the Premier (Mr. Peterson) to produce that report. I presume he has to produce the report down the line anyway. Why do we not have it now, so we can clear the decks to deal with Mr. Fontaine and the rest of the witnesses in an orderly fashion? That is why I would prefer to vote on the motion today.

Mr. Warner: I agree with the comments of my colleague. It seems to me that there are two major aspects to this whole thing. One, obviously, is Mr. Fontaine himself. Naturally, the chair is interested to know whether Mr. Fontaine is mentioned in the report. Second, I assume there is a question in

the minds of the members here as to whether there was a significant change in the conflict-of-interest guidelines that affected Mr. Fontaine and possibly other members. This is a bigger question. It seems to me entirely reasonable to request a copy of the report, which was prepared for the Premier.

I too am a little puzzled as to why there would not be an automatic release of the report to both committees that are investigating similar charges; however, that is just a little guessing game. I do not believe there is any particular reason not to press forward this afternoon to start the ball rolling and ask for the report. One would assume that it would be forthcoming from the Premier's office without the necessity of a warrant.

Mr. Chairman: Part of the reason I am not entirely comfortable with ruling on the motion this afternoon is I am aware that another committee has gone through a similar exercise and has not received it. For example, if I thought we would get this by means of a phone call, as this pile of documents over here arrived, I would have no problem with it. I am aware there will be a little procedural hang-up on some consideration about it. I am not unmindful that for about the same reason as I would expect my bank manager not to give out all my financial disclosure that he has--this afternoon it is a little more detailed than that--we would proceed with some caution on it.

Mr. O'Connor: In reply to that latter comment, it should be understood the report will be released at some point in the future. The point we are trying to make here is that these committees are sitting now. The information in that report is extremely relevant to the deliberations of both these committees. If it will be reproduced or produced at a later date, why not now? To get matters rolling today would be of great assistance.

The passing of a motion, such as has been tabled, by this committee adds considerable weight to the request made by the other committee. Now that two committees are seeking the same document, it may be the persuading point in the Premier's mind to eventually release that report.

Mr. Treleaven: Just one point. A distinction should be made between our mandate and instructions and those of the public accounts committee. We have different mandates and different instructions from the Legislature. There is a distinction that should be remembered.

Mr. Chairman: Let me correct one thing. A couple of people have said this Blake, Cassels and Graydon report will be made public. I have seen no evidence of that. I have seen evidence that it will be referred to the Aird committee, which will make a public report, but I have not even seen a newspaper report that indicates the Blake Cassels report per se will be made a public document. That is now under consideration.

To answer the member's point, which I thought was a good one, there is no question that the Aird report will be referred to this committee eventually, and at that time I do not think I will have any problem in making the request. We may encounter some difficulty with personal information or whatever. The whole matter of conflict-of-interest guidelines will come before this committee eventually. I will view this motion in a somewhat different light at that time. I would view it in a different light now if I could find out what the terms of reference are. That is what I am trying to do this afternoon.

Mr. O'Connor: If you read the motion, you will see that all we are doing is requesting the Premier to table it immediately with the clerk--we are



not suggesting a warrant or anything other than a request. If for reasons he may wish to put to us he feels it is inappropriate, he should state those reasons. He has not so far--not through the press, that is. I do not think there is the jeopardy you are suggesting, Mr. Chairman, of the revealing of private information of a minister. We are just making a request.

Mr. Chairman: The problem I have with it is in the wording of the motion. You said, "table with the clerk." In this committee, tabling a document with the clerk of the committee means that at that moment it is a public document, all of it. That is my problem.

If you want to reword the motion, perhaps I could look at it in a different light. For practical purposes, this is going to be dealt with tomorrow morning. If you want to deal with it this afternoon and reword it, perhaps we can do that. If you want us simply to ask the Office of the Premier to provide us with a copy, we would subsequently deal with the matter of whether it would be tabled with the committee, as we did on a couple of other occasions. We asked for confidential information and we agreed we would do some vetting of it before we made it public. Perhaps an accommodation such as that could be found.

My problem is that I do not know what the report is about. I do not know what is in it. It is true that if I could see it, I could tell you whether it is relevant to this set of hearings.

Mr. Sterling: We do know something about the report. We know that it is being prepared at public expense. It is not being paid for by the Liberal Party of Ontario or anybody else.

Mr. Chairman: I do not know that. You may know that.

Mr. Sterling: That is what the Premier has said.

Mr. Chairman: I am assuming that is right.

Mr. Sterling: The Premier has said that. Therefore, I assume that is the way it is.

I do not know whether they asked for confidential information about health records or whatever--

Mr. Chairman: I do not know either.

Mr. Sterling: --which I do not think are anybody's business, other than the cabinet minister who would provide that kind of information. Therefore, if we could amend the motion to allow the report to be somewhat vetted so that very personal information such as the kind I have mentioned could be taken out, we would be willing to put that motion forward instead of this one.

Mr. Chairman: Let me entertain a general discussion while I mull this over.

Mr. Bossy: I find the wording of the motion somewhat disturbing because it is not a public report, as you have just finished saying, Mr. Chairman. You have no knowledge of what is in the report, and the motion does refer to what might be contained in that report. I do not know whether someone in this room has it, but the motion says the firm is bringing in this



report--that is what troubles me--"reportedly containing specific instances in which members of the executive council did not disclose personal financial holdings as required, and instances where there may have been a potential conflict of interest."

2:30 p.m.

Assumptions are being made in this motion about what the report contains. I find it a little disturbing about a report that is not public--you have no knowledge of what might be in there, Mr. Chairman, and yet these inferences are being made. That disturbs me a little in this motion. I feel this motion is out of order because of the wording it contains.

Mr. O'Connor: Just on that point--I am speaking out of order, Mr. Chairman, but it may help you in your ruling in that regard--the wording of this motion is identical; it has been lifted from the other committee. It was passed and declared to be in order by the chairman of that committee.

Mr. Chairman: That is right.

Mr. O'Connor: The precedent has been set there.

Mr. Bossy: That does not mean it is right.

Mr. O'Connor: No, it does not mean it is right, but it means that another chairman in another forum, identical to this, has ruled that it is in order. We do work on a precedent system in the hearings of these committees. I have some amendments to that, Mr. Chairman, which may be satisfactory to the members, if you wish.

Perhaps I can read the first three lines, because the amendments are finished after that: "That, in accordance with the provincial conflict-of-interest guidelines for cabinet ministers, the Premier be requested to provide immediately to the members of this committee the report prepared for him," etc.

That then gets away from the tabling of it, and thus the making of it public, until we as a committee decide whether or what parts of it should be made public.

Mr. Chairman: That solves some problems for me, yes.

Mr. O'Connor: I would so move that amendment if you find it in order.

Mr. Chairman: You are going to have a little trouble moving an amendment to a motion I am not yet prepared to consider.

Mr. Sterling: Could I withdraw the original motion and replace it--

Mr. Chairman: Could I handle it this way? Would you be agreeable to the notion that we make a request--as we have for all other documents of the Premier's office--for the Blake, Cassels and Graydon report? I remind you that every other document we have got so far has arrived on our desk by that same technique. We ask people to provide us with information if there is a problem with it in terms of confidentiality, its nature or whatever.

To be as precise as I can, the difficulty I have with the motion on this subject at present is that you do not know what you are asking for, and

neither do I. I do not know at this moment whether this report has anything to do with René Fontaine. I am trying my best to find that out. When I do, I will be able to make a ruling on a motion. If you want to make a request, and the committee agrees to it this afternoon, that we simply contact the Premier's office and ask for a copy of this report, and not table it with the clerk so that it is not a public document, that would resolve most of the difficulties I have with it.

Mr. Treleaven: This is a request; right in the wording, in the second line, it says, "the Premier be requested to table...."

Mr. Chairman: That is my problem. You put in your motion that you wanted the thing tabled with the clerk of the committee.

Mr. O'Connor: No. We changed it.

Mr. Treleaven: It is just a request of this committee.

Mr. O'Connor: It now reads, "The Premier be requested to provide immediately to the members of this committee," etc. It is a formal version of what you have just said.

Mr. Chairman: You are coming a little closer.

Let me put this as delicately as I can. I know we are all honourable members. I know we would never take a document that had not been tabled formally with the committee and leak it elsewhere for the sake of a few lines of print in a morning newspaper. I know you are not going to get the chance to do that either.

If I knew what this document was--it might be a totally innocuous document, and I have no problems with it at all; that is my difficulty. Until I get some confirmation from the Premier's office as to what is in it, I am afraid the best I can do is to take the request and ask them if they are prepared to make it available. With that, it gives them the opportunity to do a little vetting and provide the information at their pleasure, so to speak.

Mr. Treleaven: Like you, Mr. Chairman, I would like to put this as delicately as possible. I am questioning your authority as chairman, or that of any chairman of a standing committee of this Legislature, to decide for this committee. It is the committee that decides what it will have, what it will see, by motion. I do not think, by precedent, a chairman of a standing committee has the authority to say, "I will or will not accept motions."

Mr. Chairman: No. I told you that earlier. You can put all the motions you want, but I am going to ask for some time to make a ruling on them. I have indicated to you that if you want to put it this afternoon, you have every right in the world to do that; and I have every right in the world to ask for some time to consider my ruling.

Mr. Treleaven: But, Mr. Chairman, the committee can deny you that right for the time to consider.

Mr. Chairman: I do not think so.

Mr. Treleaven: If a motion is to be put, this committee decides not only the form of the motion but also how quickly it will take place. It is the committee as a whole, 11 people. Your vote comes in only upon a tie; otherwise



it is the other 10 members of this committee who will decide and order the business of the committee.

Mr. Chairman: Yes, that is right. Do you want to try it on for size now?

Mr. Treleaven: We might. We are being delicate. We will see.

Mr. Chairman: Can you count?

Mr. Treleaven: I do not know.

Mr. Warner: One possibility as a way to handle this, to follow up on one of your suggestions, is that we as a committee first request a copy of the report. It would be a very simple motion to request that, without the value judgements thrown in here. We would simply like a copy of the report. By tomorrow, you will know whether the Premier's office wishes to co-operate or if in their view they have justifiable reasons for not releasing the report to the committee. At that stage, we can deal with it. They may simply agree to release the report. If they do not, then the committee has to deal with it. I see that as a fairly simple, straightforward procedure. I do not think it compromises you or the committee in terms of how we do our business.

Mr. Chairman: I have no problem with that. If I can get a consensus that it be a simple request as we have done on the previous two items and everything else, we can proceed on that basis. If we go to motions, then I feel it is incumbent upon the clerk, myself and several other people to take further action, to pursue it a bit more aggressively, so to speak. But if it is a simple request and I have a consensus from the committee to proceed in that manner, that is what we can do this afternoon. Does that make everybody happy?

Mr. O'Connor: If that does not work, we can always move it later.

Mr. Warner: We have other alternatives.

Mr. Mancini: I want to refer back to the order we received from the Legislature. We were instructed by the Legislature to delve into the possible conflict-of-interest matters involving Mr. Fontaine. We were not ordered by the House to conduct an investigation into every member of the executive council. If the members of this committee want to see whether there is information in this particular report that may help them in deciding how to write the final Fontaine report the committee will prepare, then I suggest a different motion could solve the needs of the members who want this information.

I suggest the motion be that we request the part of the report that deals with Mr. Fontaine. We could make a request to the Premier's office through yourself or the researcher and say: "We understand there is a report that has been done. The Legislative Assembly committee has been instructed to review the Fontaine matter, and before we can write a report, it is important for us to know whether there is anything in the Blake Cassels report that refers to Mr. Fontaine." Then we will be able to get the information that is pertinent to this committee.

As far as the other parts of the information are concerned, that will come to us when Mr. Aird tables his report and presents it to the committee for our review. I think that will solve the needs I have heard today.

Mr. Chairman: If I have a consensus here this afternoon, it is that we request any matters in the report done by Blake Cassels concerning Mr. Fontaine be presented to the committee.

Mr. O'Connor: That is not a consensus as far as we are concerned.

Mr. Chairman: Then it will be by means of motion, a watered-down motion, I am told.

Mr. Mancini: Are we dealing with Mr. Fontaine in this committee? Exactly whom are we dealing with? We as a group have to write a report. We all realize that. We need information with regard to Mr. Fontaine's activities. Why can we not request just the part of the report that deals with Mr. Fontaine, if that is what you are interested in?

Mr. Warner: I will be very surprised if the report is divided up into chapters listed alphabetically by the individuals' names--

Mr. Mancini: It does not have to be listed alphabetically.

2:40 p.m.

Mr. Warner: --in which case what you are allowing to happen is that the Premier's office would then decide which sections of the report were pertinent to Mr. Fontaine and which sections were not.

Mr. Mancini: No; all matters dealing with Mr. Fontaine, not just matters that they felt--

Mr. Warner: That is a value judgement, because you are--

Mr. Mancini: Anywhere Mr. Fontaine's name appears.

Mr. Warner: --asking them to dissect the report.

Mr. Mancini: Any part of the report that refers directly to Mr. Fontaine. Any part of the report that says, "This is in regard to Mr. Fontaine." Any part of the report that in one way or another implies that this information is directly involved with Mr. Fontaine.

Mr. Warner: Why not see the report then?

Mr. Mancini: That is right; anything relevant to Mr. Fontaine.

Mr. Warner: Good. It will all be in the report.

Mr. Mancini: Pardon?

Mr. Warner: It should all be in the report.

Mr. Sterling: I put forward the first motion. I withdraw that motion and move that in accordance with the provincial conflict-of-interest guidelines for cabinet ministers, the Premier be requested to provide immediately to the members of the committee the report prepared for him by the firm of Blake, Cassels and Graydon.

That means exactly what you have said, that you are going to request the report. We will have to deal with the matter after that if you receive a negative answer from the Premier. That is my motion.



Mr. Mancini: We can support that motion as long as we understand that we want information that deals directly with Mr. Fontaine. We were instructed by the House to review matters involving Mr. Fontaine and nothing else, at this particular time. Let us get all the information available on Mr. Fontaine. Why do we have to go on another gigantic fishing expedition and take in a lot of information that has absolutely nothing to do with how we are going to write our final report? The Aird commission is something separate that we are going to have to consider. When we get that information, we can make other decisions; but let us deal with René Fontaine.

Mr. O'Connor: I move that you put the motion, Mr. Chairman.

Mr. Chairman: Let me try to get this clear. In moving the motion, Mr. Sterling, are you accepting that this will be only a request at this stage?

Mr. Sterling: Yes.

Mr. Chairman: That the matters reported to the members of the committee will be only those dealing with Mr. Fontaine?

Mr. Sterling: No. I am asking for the report prepared for him by the firm of Blake Cassels. I am asking for that because that is what the other committee has requested.

Mr. Chairman: You are asking for the entire report. In essence, what you have done is you have crossed out the words "executive council," but you want all the documentation done by Blake Cassels on all members of the executive council.

Mr. Sterling: Yes.

Mr. O'Connor: I move that you put the motion.

Mr. Chairman: I am going to have to ask for some time to make a ruling on that.

Mr. Treleaven: How much time are you asking for? Minutes? Ten minutes, 15 minutes?

Mr. Chairman: We could check and see whether we have a reply from the Premier's office on the terms of reference. As soon as I have that, I could probably give you a ruling on it.

Mr. Sterling: Perhaps I could put the other motion then, and we can stand this particular motion down.

Mr. Chairman: That might be a better way to go.

Mr. Treleaven: Is there something you have to do to get the ball rolling there? Do you wish a five-minute adjournment right now to get things moving?

Mr. Chairman: Probably in about five minutes I can tell you whether I am going to get those terms of reference this afternoon or whether it will be later this evening or tomorrow morning. Do you want to break for five minutes and do that?

Interjection: No.

Mr. Chairman: Okay. You now say, Mr. Sterling, you want to move back to your previous notice of motion?

Mr. Sterling: I have another notice of motion dealing with Mr. Martin.

Mr. Chairman: So that members of the committee are clear--

Mr. Morin: Mr. Chairman, what is this motion?

Mr. Chairman: So that members of the committee are clear, I will read it for you. It now reads:

"Mr. Sterling moves that in accordance with the provincial conflict-of-interest guidelines for cabinet ministers, the Premier be requested to provide immediately to the members of the committee the report prepared for him by the firm of Blake, Cassels and Graydon."

I will give you a ruling on that as soon as I can. It may be tomorrow morning.

Mr. Sterling, you have other motions?

Mr. Sterling: Yes.

Mr. Treleaven: Excuse me, Mr. Chairman, no; that nearly went by. For the sake of trying to get along, we are saying five minutes, 15 minutes and so on. I do not think it is in the minds of certain people to give you until tomorrow morning to put that last motion to a vote.

Mr. Chairman: It would help if we could get our act together. I have a problem with the motion as it is. While I am chairing this committee, I cannot go to the Premier's office for the terms of reference. Do you want to recess for a few minutes?

Mr. Treleaven: That is why I offered five minutes if you wanted to go somewhere.

Mr. Chairman: Your colleagues said no.

Mr. Treleaven: This first, but--

Mr. Chairman: Your dance card is getting full.

Mr. Treleaven: It is not put off until tomorrow morning.

Mr. Chairman: It is put off until I get a chance to find out the terms of reference. If you keep me sitting here all afternoon--

Mr. O'Connor: Unless the committee wishes a vote, and it has the right to require a vote.

Mr. Chairman: No, it does not.

Mr. Sterling: May I put the other motion and then we can come back to this.

Mr. Chairman: My problem is you are waltzing and doing a polka at the same time, but go ahead.



Mr. Treleaven: We cannot deal with one motion until the other motion is dealt with in some way, whether it be through a 15-minute recess or whatever. You cannot put one motion on top of another.

Mr. Chairman: You can. I am trying to let Mr. Sterling put his other motion. If you would stop harassing him, he could do it.

Mr. Sterling: This morning we found that Mr. Martin has refused to appear in front of this committee. I am very concerned about the testimony of Mr. Martin before this committee and point out to the members how important this individual was in the eyes of Mr. Fontaine. Mr. Martin was mentioned six times in the first part of Mr. Fontaine's statement and 23 times in the latter part of his statement to this committee. I do not know how the committee can back down from pressing to the very end its desire to have Mr. Martin before it.

It is obvious that Mr. Fontaine considered Mr. Martin's remarks in a very serious manner. We should therefore make every effort to bring Mr. Martin before this committee. I am aware there may be problems with a Speaker's warrant. I have therefore put a motion that may encourage Mr. Martin to appear without the necessity of the use of a Speaker's warrant.

As we have found during the hearings to date, Golden Tiger is receiving in tax credits or grants some \$200,000 a year from the Ontario government. I find it distasteful that the president of Golden Tiger, while receiving those benefits, refuses to appear in front of a legislative committee of this assembly.

I have looked at the Ontario Mineral Exploration Program Act. Under subsection 7(1) of that act, the minister is given some discretion in whether he makes a grant or gives a tax credit to an applicant. I am therefore putting forward a motion to ask the Minister of Northern Development and Mines, who happens at this time to be the Premier, to exercise his authority under this act and to cease any payments in the form of grants or tax credits to Golden Tiger until Mr. Martin appears before this committee as a witness.

2:50 p.m.

Mr. Chairman: I take it that you have now put the motion, which I have printed before me, in front of the committee. Let me say very quickly that this motion is in order.

I point out to members of the committee that we can write a letter requesting anybody to do anything. Nobody has to do anything. If the House were to put such a motion, the House would have the power to make this a little more formal. We could write a letter to the Minister of Northern Development and Mines, saying, "Please do not give him any more money until he shows up before us." This will be a little unorthodox, but we are free people. We can write letters to anybody we want.

It is a slight deviation from our original agreement that we would proceed in two ways to call witnesses: first, by request; and, second, by means of a Speaker's warrant. We do have the authority to request a Speaker's warrant. This would seem a bit of an unorthodox motion, but there is nothing wrong with us writing a letter requesting the minister to do something. We can do that.

The motion is in order, although strange. The logical thing, if we

followed our original pattern, when the request is turned down, we would seek the Speaker's warrant. We do have the authority to seek a Speaker's warrant; we have the full motion of the Legislature to do that. If you want to do that, that is one route. This is another one.

I am trying to clarify for you that a request from a committee does not hold any water anywhere; if it is approved by the Legislature, it does. As long as we understand what tune we are dancing to this afternoon, let us dance away.

Mr. Sterling: Mr. Speaker, first of all, I think that--

Mr. Chairman: You are a little premature with the "Mr. Speaker" stuff.

Mr. Sterling: Mr. Speaker. Yes.

Mr. Chairman: And it is pronounced "Shpeaker."

Mr. Sterling: It just seems you assume that role from time to time.

We heard from Mr. Fontaine's testimony that there was a shareholders' agreement among many of the major shareholders of Golden Tiger to give effect to the fact that Paul Martin has majority control of that public company. Therefore, the refusal by that particular president, I think, can be levered or encouraged to reverse that particular decision if, in fact, this government takes some action against the Golden Tiger company.

Second, I am concerned that this committee not just write a letter indicating this kind of action. I think a motion of the committee, the committee which Mr. Martin has categorically refused to come in front of, is probably going to hold more water in terms of Mr. Martin's reaction than simply a letter from either the chairman, the clerk or whatever.

I see no harm in taking this particular action, and I consider it less than issuing a Speaker's warrant.

Mr. Chairman: It is less.

Mr. Sterling: Therefore, it is an intermediate ground in terms of where we have gone from just a request to something that expresses my displeasure with Mr. Martin not appearing here and my displeasure with the controlling president of a company that is receiving \$200,000 from our Ontario government not appearing in front of a legislative committee.

Mr. Warner: I gather that we will require not only a Speaker's warrant but also "16 RCMP officers" to transport Mr. Martin here, if the quote is accurate.

Quite candidly, I do not think the motion here will do anything to bring Mr. Martin into the province of Ontario. He will get advice that a committee cannot cut off public funds to his company; he will know that. He will also know that the committee cannot direct the minister to cut off the funds. Therefore, all you are doing is attempting to apply a bit of moral suasion to a person who is determined not to be in front of the committee and, I understand, does not reside in Ontario.

It seems to me that the only route is a Speaker's warrant. The question



I have is whether the Speaker's warrant applies outside Ontario. If it does not, I suspect we cannot drag this hostile witness before us.

I am as anxious as anybody else that Mr. Martin not be able to thumb his nose at the Legislature, as he apparently has done. I think he has some important questions to answer. He has stated that he frequently discussed business matters regarding Golden Tiger with Mr. Fontaine when Mr. Fontaine was the minister. It is a serious statement. We should be able to question Mr. Martin on that statement.

Members should also keep in mind, just as in other settings, that we will have a hostile witness if he does manage to appear. He may not be at all co-operative in answering questions. I ask the chair whether we can get some clarification on the jurisdiction of a Speaker's warrant, whether it applies to someone outside of Ontario.

Mr. Chairman: We have sought a little more advice on that matter. Nothing about this seems to be normal. The best advice I can get is that while a person may not be a resident in Ontario and therefore, some would argue, not subject to a Speaker's warrant from this Legislature, it is also apparent that a person who does business in Ontario has, in effect, a business residence here. To paraphrase it, if you are prepared to line up at the trough here to get the grants, you are, in effect, a resident of Ontario.

While it is a clouded issue, it is not quite as stark as it would be if, for example, you were dealing with an ordinary citizen who did not operate a business here. It is not clear whether the Speaker's warrant would be readily served, but certainly the moment that Mr. Martin or someone representing him came into Ontario to transact business, the Speaker's warrant would be valid and could be served.

It is like these wonderful jurisdictional disputes we get into from time to time where somebody has moved somewhere else to avoid a law. When they do come back to visit, they are just as susceptible to Ontario law as anybody else. Mr. Martin may not be a resident of Ontario. He may live in Montreal. But if he expects to do business in Ontario and enters the province, we could serve him with a Speaker's warrant at that point.

Mr. Warner: Provided you can find 16 officers to do so.

Mr. Chairman: The OPP has a little more than 16. Mr. Mancini and then Mr. O'Connor.

Mr. Mancini: Mr. Chairman, first, I am appalled at Mr. Sterling's motion and that a practising lawyer would draw up such a motion.

Mr. Sterling: That is the third time you have been appalled, Remo.

Mr. Warner: You just do not like lawyers.

Mr. Mancini: If I read correctly, this motion is nothing but blackmail. We want to blackmail Mr. Martin into appearing before this committee when we have other tools at our disposal to get Mr. Martin here. We are in favour of issuing the Speaker's warrant to get Mr. Martin here, but we are not in favour of blackmailing Mr. Martin to come before this committee through the use of government grants or what have you which he may not even be able to get. It is a ridiculous motion. If we have the tools at our disposal, such as the Speaker's warrant, let us use the Speaker's warrant. Let us not use blackmail.

I am surprised that a practising lawyer would draw up such a motion, and it certainly is not deserving of any support whatsoever.

Mr. O'Connor: Particularly recently, Mr. Martin, if accurately reported in the press--and we have no reason to believe his words are not accurately reported--has shown, in my opinion, an outrageous degree of contempt for this committee. In fact, in talking privately with some of the members of the press, I understand he said even more than has been reported which would demonstrate the degree of his contempt for this committee.

On the one hand, he is thumbing his nose at us and, literally with the other hand, he is taking \$212,000 of our taxpayers' money. Surely there should be at least some moral suasion, and I do not put it in the category of blackmail. It surely is not that high.

Mr. Mancini: I would like to ask a question. Is it a fact that Mr. Martin has received \$212,000?

Mr. O'Connor: No. That is why this type of persuasion would be effective. He is awaiting his second--let me answer your question.

Mr. Mancini: Basically, you said he has received the money, and now you are saying he has not received the money. Has he or has he not?

Mr. O'Connor: Let me answer the point.

Mr. Chairman: Why not let Mr. O'Connor have the floor for a while, and you may get an answer.

Mr. Mancini: That is an accusation he made.

Mr. O'Connor: That is exactly why this kind of motion would be most effective. As we understand it, and we may find out tomorrow from tomorrow's witness, he is awaiting the balance of \$186,000 by way of his grant.

Mr. Mancini: That is not quite what you said earlier, Mr. O'Connor.

Mr. O'Connor: Mr. Chairman, you have described considerable difficulty with regard to the Speaker's warrant and the question of whether it could be effective in these circumstances. Rather than put ourselves to that test and issue a warrant, which may hang out there until he comes into the province or for some lengthy period of time, perhaps until after the committee has risen and given its report, is the simpler thing not to apply this kind of moral suasion? That is all it is.

We are asking the minister to exercise a discretion. The minister can refuse to do so if he thinks fit, but he should tell us that. What is wrong with taking this first, interim step prior to exercising the ultimate authority we have, which is a Speaker's warrant? In the circumstances, that might be much more difficult to exercise than simply cutting off the additional grant he is about to receive until he does appear before us. In fairness to the taxpayers of this province, who are giving him this grant, it is most appropriate that he accede to our jurisdiction, accede to this committee prior to availing himself of these moneys.

Mr. Mancini: I object to Mr. O'Connor saying steadily that we are giving him a grant. He has not received anything. By your own admission, you agreed that he has not received that money. Why do you keep saying he has received the money when he has not?



Mr. O'Connor: He has received \$23,000.

Mr. Mancini: He has received \$23,000, which is a far cry from \$212,000, Mr. O'Connor.

Let us use the Speaker's warrant. That is a tool at our disposal. Surely as a member of the Legislature, you do not want this assembly to use blackmail tactics to get a particular witness in front of us so we can ask questions. Surely that is not your style.

Mr. Morin: May I make a suggestion that Merike Madisso gives us an interpretation of the act itself and tells us how far this committee can go and what tools and what power we have. Then let us make it clear. If we have all those powers, then we will pass a motion.

Mr. Chairman: Just to review that, there is no question that this committee has the full authority of the Legislature to seek a Speaker's warrant for anyone or any document. That is clear. Let me make it clear also that we have no ability to tell a minister to stop granting moneys to somebody. We can write a letter, just as anyone in the world can write a letter, but it will have not status with the minister unless he chooses to exercise it. It will have no status with Mr. Martin unless the minister does something about it.

There is not very much question that the Minister of Northern Development and Mines does have the authority under clause 7(1)(b) of the Ontario Mineral Exploration Program Act to make such a decision. What I am clarifying for you is that is not this committee's decision to make. We have no jurisdiction in that regard at all. We do have jurisdiction with the Speaker's warrant.

Mr. O'Connor: To satisfy the needs of all members of the committee, perhaps we should do both. Mr. Mancini and his colleagues seem to want to issue a Speaker's warrant. Fine. Let us issue a Speaker's warrant. I have little faith that it will be exercised. When Mr. Martin hears that is the case, I think he will avoid the jurisdiction of Ontario. If my colleagues in the Liberal Party wish to do that, fine, let us do it. Let us also pass this motion and add a little weight to our request that he attend before before our committee, because a Speaker's warrant will not do it.

Mr. Chairman: Is there any further discussion on the motion?

Mr. Sterling: In reading the motion, all we are doing is requesting the minister to take this under consideration. We are asking him to look at the act. We are asking him to consider withholding payment until Mr. Martin appears in front of this committee. He can either accept the advice of this committee or not.

If it is the desire of the committee to issue a Speaker's warrant, as I mentioned in my opening remarks, I consider that a lesser action, but as Mr. O'Connor indicates, why not do both? Then Mr. Martin will have not only the pressure of this Legislature but also the pressure of the shareholders to act.

Mr. Chairman: Is there any further discussion on the motion? Are you ready for the vote? Those in favour of Mr. Sterling's motion, please indicate. Those opposed?

Motion agreed to.

Mr. Chairman: Are there any other motions?

Mr. Warner: I move this committee issue a Speaker's warrant for Mr. Martin to appear before the committee at his earliest convenience.

Mr. Chairman: I get the drift of the motion. The motion is that we seek a Speaker's warrant for Mr. Martin to appear before the committee. To make it clear, I do not issue the warrant; the Speaker does. If you pass a motion saying we want it and we have a motion from the Legislature which says we have the power to get one, the Speaker would issue the warrant.

Mr. Treleaven: As soon as possible.

Mr. Chairman: Yes, as soon as possible. Is there any debate on the motion?

Mr. Sterling: Should we not indicate the date on which it should be returned, or is that left to the discretion of the Speaker?

Mr. Chairman: The suggestion I have is "as soon as possible."

Mr. Treleaven: I would not like to find that someone interprets that as a bench warrant. I suppose the equivalent is a bench warrant, at which they go out and take hold of the person and bring him forthwith in front of the bar.

Mr. Mancini: Why are you debating something we all agree on?

Mr. Treleaven: I am just wondering whether we should have a specific date on it, such as next Thursday afternoon or whatever.

Mr. Chairman: If you like, I can entertain that as a friendly amendment to the motion.

Mr. Warner: That is fine. I say within a week.

Mr. O'Connor: The difficulty with that is, if we cannot serve him within the week, then it has no force and effect. Perhaps we should leave it to the clerk to determine the form of a normal Speaker's warrant, but if the analogy is a bench warrant, as my friend indicates, there is no date on the bench warrant. It authorizes a peace officer to arrest the person so named and hold him in custody until he can be brought before a magistrate. I am not sure if that is the same effect as a Speaker's warrant, but I suspect it is, and that may be the route to proceed. If you put a specific date in it and the date goes by, it has no force and effect.

Mr. Chairman: These are not animals that we see very often. For your information, the Speaker's warrant is very much akin to a bench warrant. On the occasions when I have seen them used, they have been, "Give me this document now," and you get it and bring it in, or "Give me this person now," and you get him and bring him in.

If you put a date on it and you pass the date, if you are not able to serve the Speaker's warrant by that time, if you said in the warrant, "We want him to appear next Thursday afternoon," and we were unable to serve the warrant, you would have to issue a second, separate Speaker's warrant. That would be the process. If you say as soon as possible, that gives a bit of leeway. In other words, "You have to appear in court next Tuesday morning." If that is your wish, that is what we can do. We can handle the wording. That is not a big problem.



Mr. Sterling: My only concern is that, notwithstanding Mr. Martin's reluctance to appear, if next Wednesday is better than next Thursday, our caucus has no concern about whether he appears on any one of the given days, but we want him on one of the days.

Mr. Chairman: The motion is that we seek a Speaker's warrant for Paul Martin to appear as a witness in front of this committee as soon as possible. Are we agreed on the motion?

Motion agreed to.

Mr. Chairman: Are there any further motions this afternoon?

Mr. Sterling: Mr. Chairman, have you been able to determine in any way--

Mr. Chairman: That is what Ms. Mellor is doing now.

Mr. Sterling: Then can we have a recess for five or 10 minutes?

The committee recessed at 3:10 p.m.

3:25 p.m.

Mr. Chairman: Perhaps we can proceed. I asked for some time to consider a ruling on a motion placed by Mr. Sterling. I will now give you that ruling.

Before I do, I will do something a little unusual. If you want a ruling this afternoon, I have it verbally from the Premier's office that the report was commissioned by the Premier of the firm of Blake Cassels on July 2. It deals with all present members of the executive council. That would mean that there would be no mention of Mr. Fontaine in the Blake Cassels report. That is the verbal information I have this afternoon.

If I were asked to make a ruling on it this afternoon, I would then rule the motion is out of order because the Fontaine matter is clearly before the committee at this time, but the remainder of the cabinet, certainly all members of the present executive council, that matter is not before us as yet. If you ask for a ruling this afternoon, the ruling would be that the motion is out of order. The only hesitation I have is that the information I have received is verbal. It might be a little more proper to receive that in writing. What is your pleasure?

Mr. Warner: Withdraw the motion.

Mr. Sterling: Why not put this over until tomorrow morning when you get some written confirmation of this?

Mr. Chairman: If you like, to accommodate people, I will ask the Premier's office to give you that response in writing and we will incorporate that into the ruling tomorrow morning. Any further business for this afternoon?

The committee stands adjourned until 10 o'clock tomorrow morning. The witness tomorrow morning will be Tom Tworzyanski, acting supervisor of the management planning section.

The committee adjourned at 3:28 p.m.

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M-24

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

WEDNESDAY, AUGUST 13, 1986





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

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Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L. (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Martel

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witness:

From the Ministry of Natural Resources:

Tworzyanski, T. J., Acting Supervisor, Management Planning Section, Timber  
Sales Branch, Forest Resources Group

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, August 13, 1986

The committee met at 10:11 a.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: As the first order of business, I said yesterday that I would provide you with a ruling. I will do that now. I believe you have copies of the ruling and the letter from the director of policy from the Premier's office.

Yesterday I reserved my ruling on a motion by Mr. Sterling requesting the Premier (Mr. Peterson) to provide committee members with a copy of the Blake, Cassels and Graydon report. My reasoning at the time was to allow myself the opportunity to determine the relevancy of the report to the matter currently before this committee.

As you are aware, Mr. Fontaine resigned as Minister of Northern Development and Mines on June 26, 1986. I have been assured by the office of the Premier that there is no reference to Mr. Fontaine in this report. The firm of Blake, Cassels and Graydon was asked on July 2, 1986, to review holdings of the then present members of the executive council to determine any conflict of interest. I told you yesterday that I had been informed verbally that there was no mention of Mr. Fontaine in the report, but I was waiting for written confirmation. That confirmation has now been received and the clerk has distributed copies to you.

It is therefore my opinion that, as the report does not make any mention of Mr. Fontaine, I must rule Mr. Sterling's motion out of order since this report is not relevant to the specific matter currently before this committee.

Mr. Sterling: I am eventually going to withdraw the motion, but I want to express my displeasure with the chair in terms of determining what is in the report before making the order. I think it is well within the mandate of the committee to request a document in which there may or may not be something in relation to the matters before that particular committee.

Mr. Chairman: I am going to interrupt you for a minute. I am quite prepared to listen to your comments this morning, but I am going to point out that the ruling of the chair is not debatable. You can challenge it but not debate it. If you want to make some remarks, go to it. I am very patient.

Mr. Sterling: I have expressed it in terms of the position that I am in. I think it is also important to point out that because the Premier has said that the Blake, Cassels report clears the cabinet ministers who were under consideration--

Mr. Chairman: That is not what it said.

Mr. Sterling: I said that is what the Premier has been reported to say in the press, that the cabinet ministers were cleared by the Blake, Cassels report. Therefore, the necessary implication is that the report does



not clear either Ms. Caplan or Mr. Fontaine. Therefore, that part of it is important for the consideration of this committee because we are considering Mr. Fontaine's alleged conflict with the guidelines put forward by the Premier.

I do not agree with the process or the procedure that you have gone through on this motion. I withdraw my motion.

Mr. Chairman: The second matter I will deal with this morning is the motion by Mr. Sterling to send letters to Mary Eberts and Michael Bourgeault regarding the waiver of solicitor-client privilege. We have prepared that letter and we will put the motion now by Mr. Sterling. Is there any debate on the motion.

Mr. Mancini: Can we have that letter?

Mr. Chairman: We have not sent the letter out yet. We are awaiting passage of the motion.

Mr. Mancini: Can we have a copy of it?

Mr. Chairman: It is essentially a letter notifying them that we would like to have them get waivers from their clients so that they could speak freely to the committee. The motion is to send that letter to Ms. Eberts and Mr. Bourgeault. Is there any further debate on the matter?

Mr. Mancini: I do not know how we can ask people to give up one of the oldest traditions in law, that is, the confidentiality between a lawyer and the client. For a practising lawyer to so casually mention to this committee that we should send a letter asking clients and lawyers to give up a privilege that has been established over hundreds of years is really a surprise to me. Therefore, we cannot support such a motion.

Mr. Sterling: Mr. Mancini should understand that the solicitor-client privilege is owned by the client. It is up to the client, Mr. Fontaine in this instance, to decide whether he should grant a waiver of the solicitor-client relationship. All the motion does is to request both the legal counsels who have acted for Mr. Fontaine to go to him and request that he waive such a privilege. If Mr. Fontaine does not choose to do it, that is fine and dandy. They will have to deal with it.

The intent in putting this forward was that we would save time for the committee by not going over with Mr. Fontaine matters which we would like to ask either Ms. Eberts and Mr. Bourgeault. It is ironic that in the Caplan hearing Ms. Eberts did obtain the waiver. Therefore, it is really nothing new in the hearings that go on in these types of circumstances.

Mr. Warner: I am prepared to support the motion, provided that Mr. Sterling is willing to accept that this is done without prejudice. Should the waiver be denied, it should be accepted at face value because it is a privilege of a client. Should the client decide he does not wish to waive that privilege, I presume that Mr. Sterling would accept that is done without prejudice, and it should in no way affect our view or observation of the facts as they unfold before us.

Motion agreed to.

Mr. Chairman: The letters will be sent.

The final matter this morning concerns Mr. Sterling's notice yesterday that he would like to put a motion regarding the agreement with Canada Trust. Roland Cloutier is consultant for the blind trust for René Fontaine. I now have copies of it that have been provided to us by Mr. Pratte. I table them with the committee now and circulate them. It seems to me the motion is redundant.

Mr. Sterling: I withdraw the motion.

Mr. Chairman: Unless there are other procedural points that members want to raise, we have a witness this morning, Tom Tworzyanski, who is the acting supervisor of the management planning section of the timber sales branch of the forest resources group of the Ministry of Natural Resources. Tom, please come forward.

Before we swear in the witness, the members indicated yesterday that they wanted some information on applications and licences. We are in the process of getting that information. It should be here, we hope, some time today.

Mr. O'Connor: I may be incorrect, but I thought we were not going to swear in this gentleman. He is here to provide us with background information.

Mr. Chairman: You called him as a witness and because he is a witness, he will be sworn in.

Tom Tworzyanski sworn.

Mr. Chairman: Before we begin, Tom Tworzyanski has asked me to explain briefly that his expertise lies in the field of the forest management agreement and not in the field of licensing. It may be of some assistance to you this morning. It was my understanding that you wanted someone to come back to do FMAs with you.

10:20 a.m.

Mr. O'Connor: That is not what we need at all. You will recall that when we were deciding the routine and the list of witnesses we wanted to hear, I had made the comment--I can dig it out of Hansard if necessary--to the effect that there had been licences granted to companies which apparently no longer existed; that several explanations had been given for that statement of affairs, that there had been some suggestion that because there were more companies applying for licences than after the amalgamation, when there was only one, the amount of acreage cut and therefore the amount of cordage cut might have been affected by that process and that might have been the reason behind the continuation of the granting of licences in the names of companies that no longer existed; and that it was that issue we wanted to get to the bottom of.

As I recollect, it was for those purposes I suggested we call back someone from the Ministry of Natural Resources. Frankly, that is my interest in calling this witness. There are others who may want to speak of forest management agreements, but I wanted to get to the bottom of that issue.

Mr. Chairman: If I recall it correctly, there were several motions to call different witnesses. Some carried and some did not. When a committee moves a motion and it carries, I will call that witness, which is what I have



done. If your motion did not carry, you can certainly complain about it--feel free--but there is nothing I can do. All I can deal with is that when you put a motion and the motion carries, I call that witness. That is it. If your motion did not carry, there is not much I can do about it.

Mr. O'Connor: I do not know whether it was a motion or just a suggestion to which the committee agreed, but if I recall, my motion did carry, and that is why we specifically called this witness.

Mr. Mancini: You have a faulty memory.

Mr. Chairman: I am having some difficulty. I am trying as best I can to accommodate people who may not be fully aware of the individual they want; but when it comes right down to it, if you call a witness by name, that is the only witness I can put in front of the committee. I am trying to assist people in determining documents and witnesses who might provide you with some testimony that would assist you; but if you do not know whom you want to call, there is not much I can do about it. You had the opportunity to put motions before the committee to call witnesses. You did that. The motions that carried will have the witnesses present. The motions that did not carry will not have those witnesses called, and there is nothing I can do about that.

Mr. Treleaven: Maybe what is setting the alarm bells here is your initial statement that Mr. Tworzyanski is an expert in one area and not in another, and perhaps he does have enough information in that other area. I hope you are not saying we cannot ask questions beyond that area.

Mr. Chairman: No, I did not say that at all and I did not mean to infer that, but I am trying to tell you who he is and what his field of expertise is. That might assist you in the questioning. That is all.

Mr. Treleaven: After we have asked questions, perhaps enough information on licence agreements will be obtained. If not, maybe we can seek somebody else at that point, but I guess we had better go ahead and see what ensues from the questioning.

Mr. Chairman: As I recall, this was your motion, Mr. Treleaven, and this is the witness you wanted and that motion carried. I was under the false assumption that when you put a motion and the motion carries, you are interested in questioning that witness.

Mr. Treleaven: That is right, but there were several other motions made that did not carry.

Mr. Chairman: That is right, and we cannot do much about that.

Mr. O'Connor: You will recall, Mr. Chairman--I think it was yesterday--we discussed, in connection with this witness, his bringing certain documents. We requested the timber licences granted to these various companies for several years prior to the amalgamation and for the years since. I would have thought that was an indication that this is the area I want to explore.

Mr. Chairman: I cannot read minds. What I can do is deal with motions. If you want somebody in front of the committee, put a motion calling the witness. If you do not have the ability to do that, we will help you do that. You find the name and we will help you word the motion. You put it in front of the committee. If it carries, the witness will appear. If it does not

carry, the witness will not appear. There is nothing more I can do. Do you have questions for this witness?

Mr. O'Connor: Yes, dealing specifically only with timber licences.

Mr. Chairman: You can deal with whatever you want, Mr. O'Connor.

Mr. O'Connor: Mr. Tworzyanski, do you have access and did you bring with you the ministerial records with regard to the various companies that have held and do hold timber licences in which Mr. Fontaine was the principal owner, officer and director, as we discussed yesterday at the committee, from approximately 1979 to the present time? Were you apprised of that request and did you bring those records with you?

Mr. Tworzyanski: Yes, I was apprised of the request this morning. The request was clarified and the records are being compiled at the present time. Some of them may be archived or may be other than readily accessible and they are being put together.

Mr. O'Connor: Would those records include the timber licences granted to the various companies, and I will outline them for you, together with perhaps all the records contained as to the amount of area covered, the amount of cordage cut, in other words, the district manager's report, which I believe is the final document in those records and indicates that kind of information? Would all of that be coming for each of the companies: Arrow, Mooseland, Polar and United Sawmill?

Mr. Tworzyanski: Yes. The district manager's record would be part of the license file and it would be included as part of the record to be submitted to the committee.

Mr. O'Connor: And what you have asked for includes the four companies I just mentioned?

Mr. Tworzyanski: I will just clarify the list I have. There was Arrow, Mooseland, Polar and United.

Mr. O'Connor: Yes.

Mr. Tworzyanski: Yes, it will.

Mr. O'Connor: Do you know when those records will be here?

Mr. Tworzyanski: The chairman indicated that he hoped it would be some time today. I also hope it will be some time today. There is a fair volume of material to copy and provide to the committee.

Mr. O'Connor: Mr. Chairman, I might then reserve my further questions until the records arrive and I have an opportunity to ask specific questions with regard to those records.

Mr. Mancini: When these licence applications are made, sir, I assume they go through the regular civil service process. I also assume your ministry officials in the north would be familiar with the operators and the ongoing operations. I assume there is some type of relationship with the officials and the operators. Is that correct?



Mr. Tworzyanski: Yes. That would be a reasonable assumption.

Mr. Mancini: I also assume that the officials would have a pretty good knowledge of what is going on.

Mr. Tworzyanski: In terms of--

Mr. Mancini: In terms of the companies and the individuals involved. They would have a fair knowledge of the business in order to be able to supervise it?

Mr. Tworzyanski: In my experience in the field and having dealt at that particular level, you would not necessarily be familiar with the business practice or the corporate structure of the company. You deal more with its performance in harvesting, where the real field interest lies and whether it pays its bills on time and so on. That would be about as far as you would go.

Mr. Mancini: Once you get these applications, what do you do with them?

Mr. Tworzyanski: In the field or in main office?

Mr. Mancini: Let us start with the field first and work our way on to Toronto.

Mr. Tworzyanski: In terms of the process today--and I have not done this for about 10 or 11 years, which is where my expertise goes back to--generally, the application receives scrutiny at the field level and is recommended for or against. Then it is put through the normal channels of processing until a licence is issued. I really cannot speak to the in-between steps to give you anything informative from my background right now.

Mr. Mancini: Is the minister's signature necessary?

Mr. Tworzyanski: On a licensed document or on a particular type of licensed document, I believe it is.

Mr. Mancini: One would assume then that all of these applications or renewals, I guess we could call them, were signed by previous ministers of the crown before they were in effect?

Mr. Tworzyanski: Yes, that would be a reasonable assumption.

10:30 a.m.

Mr. Mancini: And they would have received advice from certain individuals within the ministry whether to sign or not to sign? For example, as in the case of ministers such as Mr. Pope, who is a northerner himself and very close to the situation, he might have enough information on his own basis just from living in the area and being familiar with the industry to use that information, along with other information he received from his officers, to make a signature or to deny a signature and therefore to deny a licence?

Mr. Tworzyanski: I believe the minister's signature on a licence is recommended by the legal services branch, which deals with the legality of whether a minister can or cannot sign a particular document.

Mr. Mancini: The minister receives legal advice before he actually signs?

Mr. Tworzyanski: That is my understanding, yes.

Mr. Mancini: Is there a formal process to that?

Mr. Tworzyanski: I suspect there is, but I cannot speak to that directly.

Mr. Mancini: That is all for right now.

Mr. Sterling: Because I do not have a great deal of experience with timber licences, maybe you can help me understand the process a little bit. We have some specific questions about specific companies and assignments and that kind of thing. It is my understanding that a licence designates an area and a quantity of wood to be taken from it. Is that correct?

Mr. Tworzyanski: A licence would normally designate an area and a quantity potentially available off that area.

Mr. Sterling: The potential is not necessarily filled each year?

Mr. Tworzyanski: That is quite true. It would not necessarily be filled every year, no.

Mr. Sterling: How do you measure it? I understand a fee is charged for the timber licence. Does that fee vary from place to place?

Mr. Tworzyanski: Generally, the fee is on an area basis, depending on the type of licence. There are a variety of licences; I would rather not get into that in detail. I would prefer somebody else who deals with it on a daily basis to do that. Generally, there is a fee for the area, and then there is a fee based on the volume harvested on a unit price basis. That is all in the Crown Timber Act. It is specified that way.

Mr. Sterling: Does a person holding the timber licence have the exclusive right to cut in a particular area? Let us say he owns that plot of land for the period of time when it is cut. Is that what the timber licence does?

Mr. Tworzyanski: Not necessarily. There could be a variety of conditions that might make that wood available to other people.

Mr. Sterling: There is a primary cut. Is there other value that can be taken out of that particular timber licensing area? Is there a secondary cut or whatever as well?

Mr. Tworzyanski: I do not understand. A licence is for a period of time, whatever it may be, and over that period of time wood may be harvested off a licensed area through an approved process.

Mr. Sterling: How do you measure what is coming out of that area?

Mr. Tworzyanski: The volume of wood is scaled. It is measured in an approved fashion, be it piece by piece or by weight.



Mr. Sterling: When the ministry is determining a fair appropriation of timber licences for an area, how do you determine who is entitled to how much? I imagine there is some competition for quantity and some competition for quality. How does the ministry decide X company gets this area and this amount?

Mr. Tworzyanski: That I cannot answer. I do not know.

Mr. Sterling: You have no idea how the ministry does that?

Mr. Tworzyanski: No, I do not. I should elaborate. Most of the area that is licensed in Ontario has been licensed to the same company or to a relative of the same company, so to speak, over quite a period of time. That practice generally continues. When you get into who gets a licence and who does not, the question is tied more into a local problem or a local concern. How that process takes place I cannot speak to. It would be different everywhere, whatever the process would be.

Mr. Sterling: Who would know best for the Hearst area?

Mr. Tworzyanski: I would suggest somebody from timber sales would be better qualified to speak to it from the licensing end than I would.

Mr. Sterling: They are the people who deal--

Mr. Tworzyanski: They deal specifically with licensing.

Mr. Sterling: I notice that some of the licences are for one year and some are for a number of years up to four or five years, I guess. Is that decided by timber sales?

Mr. Tworzyanski: Again I am speculating, but I assume the recommendation for the term of a licence comes from the local area. I can relate it back to the management planning end, in which I do have some expertise. There are different types of units in the province; there are company units and there are crown units. On a company unit, your decisions are a little easier because the company is there for a long term. On a crown unit, there may not be a fixed licensing scheme, and people may come from year to year with a requirement for wood. It may be small, it may be a little larger, depending on contracts, the current business climate and so on. Hence, the licensing scheme would develop from that.

Mr. Sterling: Have you been involved with the forest management agreement in the Hearst area?

Mr. Tworzyanski: Yes, I have.

Mr. Sterling: Have you been involved with all the negotiations in that matter?

Mr. Tworzyanski: Yes.

Mr. Sterling: Where does the matter now stand?

Mr. Tworzyanski: The matter is essentially suspended, pending the outcome of the committee and pending direction from senior staff.

Mr. Mancini: On a point of order, Mr. Chairman: In reference to that question, our committee was given a document, which was in volume III, second packet. It contained a July 7 press release that answered very fully where the matter stood. The matter stands with Dean Gordon Baskerville of the University of New Brunswick and Wilfrid Spooner, a former Minister of Lands and Forests and a former member of the Legislature. They have agreed to conduct a review into the process, and that is where the matter stands.

Mr. Sterling: I was trying to establish it, because we did not go through that documentation in detail in front of this committee. There is a significant amount of documentation on where it was at that time. I understood from the documentation that there were two parties involved in the forest management agreement, Lecours and United Sawmill. An agreement was being negotiated, and a Levesque firm had indicated a desire to be a third partner in the FMA. Is that correct?

Mr. Tworzyanski: That is correct. Any of that type of negotiation, if it is continuing, would be going on between Hearst Forest Management Inc. and Levesque directly without the involvement of the ministry.

Mr. Sterling: But the control of Hearst Forest Management rests with United Sawmill and Lecours, which are 50:50 partners in that company.

Mr. Tworzyanski: At present, that is the organization, yes.

Mr. Sterling: But the ministry was also putting some pressure on that group to include Levesque. Is that not correct? We received a lot of correspondence indicating that.

Mr. Tworzyanski: To have Levesque included as a part of or to come up with a mechanism for it to be included as part of the co-operative, yes.

Mr. Sterling: There was resistance on the part of Lecours and United to include Levesque. I believe that was in the last or the second last piece of correspondence.

Mr. Tworzyanski: I believe there was at the time. Towards the end there was resistance. I understand there should be some correspondence that deals with that. They are willing to consider the inclusion of Levesque within a certain time frame. That is essentially where the matter ended in terms of ministry involvement and the proceedings as we are familiar with them until this time.

Mr. Sterling: How would you characterize the difference between this, which is the first joint FMA that exists in Ontario, as I understand it, and all the rest, which have been done with a single operator? Is that correct?

Mr. Tworzyanski: Yes, it is.

Mr. Sterling: This is the first time you have tried to tie two operators or three sawmills together into one package.

Mr. Tworzyanski: Yes.

10:40 a.m.



Mr. Sterling: When you are dealing on a one-to-one basis, I can see there is not much necessity to differentiate between control of the particular area by the FMA company versus control by the sawmill, as they are in this case. What is the difference in terms of the transfer of any kind of power to the FMA company from the ministry? What rights does the FMA company have?

Mr. Tworzyanski: The same rights as any single FMA holder would. There is no difference in terms of the ministry viewpoint. That is why we insisted on dealing with one company and one voice and not two companies representing a co-operative. One of the points we made was that we had to deal with one entity that would make the decisions in terms of the forest management agreement; so in our view there would really be no difference if there were four or five people there. We would deal with one or two people who represented the conglomeration of their concerns; we would not deal with each one individually.

Mr. Sterling: In terms of timber licences and other rights to exploit the resource, what transfer of power is there from the Ministry of Natural Resources to that FMA company? You are transferring some obligation, the obligation for forest management.

Mr. Tworzyanski: Yes.

Mr. Sterling: What decisions does an FMA company make?

Mr. Tworzyanski: The FMA company makes the management decisions; that is, the manner in which the piece of forest property will be harvested or regenerated, the sequence of activities that go with the management planning aspects and so on. Those would be the decisions made by the FMA holder.

Mr. Sterling: Can you give me some examples of the kinds of decisions the FMA company will be making? If it is making decisions, it is having to direct some people. In this case, United Sawmill will have to look to Hearst for some decisions. What kinds of decisions or instructions would they be receiving from Hearst?

Mr. Tworzyanski: The way I visualize it would work, the companies individually forming the co-operative would carry out the work prescribed through the planning process, and that would involve access, the harvest, the location of the harvest, the amount to be harvested and the subsequent regeneration and maintenance activities necessary to keep that forest in production.

Mr. Sterling: In terms of access roads, for instance, the forest management agreement would say, "We are receiving X dollars from the government to put in these access roads; we need some other dollars from the companies to put in these access roads," but they make the determination of which access roads are built and when. Would that be correct?

Mr. Tworzyanski: That is partly correct. The agreement specifies unit prices only; it does not specify final amounts. The planning process specifies the amounts of road requested for construction and the amounts of silvicultural activities requested to be funded. A certain level that the local staff and ministry administrative staff feel is appropriate for that size of FMA is approved annually through the normal ministry budgeting process, and that is across the province. Then those moneys are paid out as work is carried out on a unit basis. It is verified, approved and then the moneys are paid for work done. That is the way that would work.

The moneys are generally paid directly to the forest management agreement holder. However, there is a pass-through clause in the agreement that if a third party, other than the FMA holder, carries out the harvesting and the subsequent regeneration activities, those moneys flow through directly to that third party.

Mr. Sterling: The permission to undertake the work and the allocation of the money, who is that determined by? Is that determined by the Ministry of Natural Resources or the FMA holder?

Mr. Tworzyanski: The MNR approves the work, the location and the extent of the work to be done, and then the FMA holder implements it. In the case of a co-operative FMA holder, it would allocate the activities to be carried out by whichever parties are either part of the co-operative or working on the FMA area in accordance with the pre-approved plan.

Mr. Sterling: I think you indicated that they also have some power over allocating cuts. Is that correct?

Mr. Tworzyanski: They would in terms of the planning process, but that gets into the realm of the whole public participation aspect and the approval of the allocation by the ministry. So, yes, they would have the control of planning the orderly allocation of the harvest as best fits the management needs of the area. That is subject to approval by the ministry and then it is implemented.

Mr. Sterling: How many operators are there in the Hearst area, other than the three I have mentioned? Are there a number of others?

Mr. Tworzyanski: There would be a number of other smaller ones. The three you have mentioned are the major operators. There are a number of other smaller operators with, I would say, minimum volumes of 5,000 cords or less. They appear through the documentation in a variety of ways, and they are covered for within the agreement.

Mr. Sterling: Do the operators normally do the cutting, or do they subcontract that out? Is that the normal way it is done? Or do you know?

Mr. Tworzyanski: They would control who they would sub it out to if they did subcontract it out. There also could be owner-operator arrangements. They could hire people with a machine and cutters to do work for them, or they could pay them directly out of payroll. There are a variety of arrangements that could be made.

Mr. Sterling: I do not think anybody challenges the idea of taking and managing a whole area, and I understand Hearst has a problem in terms of supply because of insects and other things. Basically, you have three large operators who are in competition with each other in some way for supply, and they may they sell the same products for end use; I do not know. How do you keep an even balance between them within the forest management structure? How do you say to them, "This is going to be as fair as we were in administering or managing this area"? How do you keep that balance?

Mr. Tworzyanski: In respect of the discussions that went on with the development of the agreement, it was established at a reasonably early time that there are traditional amounts of wood that the particular operators who work on the area in question have been entitled to--if you want to use that word--in the past. Whether or not they harvested that amount, I really cannot



say. There may be additional amounts that come out through the planning process in calculating the allowable cut and the various mechanisms we use for that. It was agreed that would be equitably distributed between the major operators in an amount that is essentially prorated to their past consumption.

It should also be pointed out--I believe Mr. Markus made this point the last time he was here--that there are many other arrangements for wood supplies for these operators, other than from the particular FMA area. I simply cannot start to list them, because there are many. The FMA area in particular is on an equitable basis based on the original historical levels, if you wish, from the particular parties.

Mr. Sterling: I assume you will still be issuing timber licences within the FMA area. Will you?

10:50 a.m.

Mr. Tworzyanski: Yes. The intent was to issue third-party licences to the people carrying out the operations. That is essentially for our bookkeeping purposes and the collection of the crown dues aspect on a volume basis. It makes life a lot easier that way.

Mr. Sterling: So you will issue one overall licence to Hearst Forest Management?

Mr. Tworzyanski: The mechanism is that the forest management agreement is a form of licence; that is issued to Hearst Forest Management Inc. The responsibility of Hearst Forest Management Inc. in terms of the financial end of it is to pay the area charges associated with the complete licence and, of course, the management of the area, the implementation of the roads program, regeneration and so on.

On the collection of the crown dues portion--that is, for the unit price for volume cut plus a token fee for area on a third-party licence--the payment of that would be through a third-party licence directly to the ministry. It makes the bookkeeping end of it a lot easier for all parties concerned, both ourselves and the co-operative.

Mr. Sterling: If you want a licence in that area, you have to go to Hearst Forest Management; then they go to the ministry, and the ministry issues the licence to the lumber company. Is that right?

Mr. Tworzyanski: If under the planning documents a volume of wood is declared surplus to the needs or requirements of the companies forming the co-operative and any other companies that have traditionally derived volume off that area, and if there are other interested parties, they may either apply through the co-operative or may make application to the minister for area to harvest. The agreement provides for consultation between the minister and the FMA holder to decide on the orderly disposition of the surplus. The final disposition of the surplus rests with the minister, not with the FMA holder.

Mr. Sterling: I thought there was some discussion in the documentation we received on the whole file that some priority was going to be given to the two holders in terms of the surpluses. Was there not some negotiation over that?

Mr. Tworzyanski: It may relate to their historical harvesting levels and as to where that surplus comes from, the issue being that the whole FMA area as it was did not necessarily supply the three particular interested parties. A major portion of it did, but there were other portions that were committed to either one or another of the particular FMA holders. I think that is the issue you are raising. There is some prorating of whatever that surplus would be potentially on as equitable a basis as possible.

Mr. Sterling: I guess what concerns me in terms of the joint FMA and the reluctance on the part of two companies to take in the third partner, who appears ready, willing and able, is the suspicion on my part that the two were trying to freeze out the third or deal with him unfairly. That is always a problem in a joint arrangement, especially when you indicated in your opening remarks, or when I started questioning you on this particular line, that the ministry stands back and away from Hearst Forest Management Inc., the management company, and says, "We do not have anything more to do with the internal arrangements of that company."

Having dealt with some matters like this before in commercial law, a shareholders' agreement normally would be part of what I would require as some kind of control over what was happening within that internal structure, or a copy of it. I am a little concerned about that matter.

I guess these agreements go on in perpetuity. How does the ministry end a forest management agreement?

Mr. Tworzyanski: Essentially, any agreement can be ended by any one of the two parties wanting to terminate it. Hence, they do not have an agreement. We have had agreements now for only about six and a half years and we have not seen it necessary to terminate any agreements to this time. A default of any one of the parties will, of course, constitute grounds for terminating an agreement.

Mr. Sterling: What is the greatest benefit to the companies participating in the forest management agreement?

Mr. Tworzyanski: Security of tenure. With the current social climate, I believe one of the major benefits is their perception as corporate citizens in terms of dealing with and regenerating the land base. If I were a company, I would look very closely at an agreement because it would cost some money out of my pocket.

Mr. Sterling: Because of the security of the long-term supply of wood for the sawmill, they can hopefully plan appropriately for the capacity they are going to have on a long-term basis.

Mr. Tworzyanski: Yes, specifically in terms of the Hearst area, where licences were issued over a long period of time to a variety of companies.

There is always wood flowing out of a particular area on a variety of exchanges--roundwood for chips or what have you. It was felt that the best way to hold the wood in the Hearst area was to have it tied down in one particular licence, with direction to the area mills, however many of them there might be.

Mr. Sterling: Do you think a forest management agreement will increase or decrease the value of the sawmills in the area?



Mr. Tworzyanski: I cannot speak in terms of value. It would make them more comfortable in terms of their being able to sustain operations; they would know where the wood is going to come from for the next 20 years.

Mr. Sterling: Certainly, you would think the long-term viability of the sawmills would be improved because of the long-term plan and an assurance that they were going to have a supply of wood.

Mr. Tworzyanski: I would say that the long-term viability of the sawmill industry in the Hearst area would be improved by having that agreement tied down.

Mr. Sterling: I mean, that is the whole intent.

Mr. Tworzyanski: Yes, that is the whole intent. That is correct.

Mr. Laughren: Could I have a supplementary on that?

Mr. Sterling: Sure.

Mr. Laughren: Would it not be the case that having this forest management agreement would also enhance an operator seeking a line of credit at a financial institution, because of the security of tenure?

Mr. Tworzyanski: I am not a banker. I have been on the other end of it. Bankers have phoned me to ask what it means when a person has a licence; I have explained that they have tenure for a period of time if they live up to their obligations. That is about all I can say.

Mr. Laughren: Thank you.

Mr. Morin: When you said "security of tenure," you also meant a sort of guarantee, a sort of assurance of jobs for the population, in reality.

Mr. Tworzyanski: That would be a spinoff, yes.

Mr. Morin: Okay, that answers my question.

Mr. Villeneuve: Thank you, Mr. Tworzyanski, for coming this morning.

Again, I have a supplementary. You just mentioned the word "spinoff." Short growing seasons such as they have in the Hearst area and a very marginal soil which probably could not do anything else make it all the more imperative that forest management agreements be part and parcel of the management of our natural resources.

Without a forest management agreement, in your opinion, what would be the normal time for the natural regrowth in the Hearst area to occur, for economic usage of a forest which has been cut over?

11 a.m.

Mr. Tworzyanski: I am having a little trouble with the question. Do you mean if there were no physical management or manipulation, where harvesting was allowed to carry on unfettered?

Mr. Villeneuve: Without government involvement.

Mr. Laughren: The thought is terrifying.

Mr. Mancini: That is not allowed now.

Mr. Tworzyanski: Without speculating too much, if there were no management and if harvesting were carried out in a totally uncontrolled fashion in an area such as Hearst dealing with the wet sites and so on, you could probably add 100 years to the re-establishment of a similar crop that you took off.

Mr. Villeneuve: Therefore, government involvement, through granting timber rights and forest management agreements in particular, ensures that sawmills existing now would not have to be either abandoned or moved as soon as you are done using the resource by cutting off the wood.

Mr. Tworzyanski: Clinically speaking, yes, you are right.

Mr. Villeneuve: Under normal timber rights, which is a sort of control without the promotion of a forest management agreement, would you say you would get a 20 per cent reduction in the economic growth? In other words, does a forest management agreement increase the efficiency over the normal timber rights being allocated by 20 or 25 per cent--you say 100 years, under no management at all--without a forest management agreement but with normal timber rights that you grant as a ministry?

Mr. Tworzyanski: Maybe I should fall back on the five-year review we did on the first five companies with forest management agreements. For a similar area harvested prior to the forest management agreement, I believe it showed there was about a 15 per cent increase in the area regenerated. I cannot recall offhand, but I believe there was well over a 100 per cent increase in the area tended by virtue of the fact of having forest management agreements and the fact that the companies have the responsibility for managing and also for bringing areas back into production.

Mr. Villeneuve: Companies always have the responsibility, but your ministry provides them with a monetary incentive, along with monetary incentives of their own.

Mr. Tworzyanski: Not exactly. Originally, under the old licensing process, the ministry did the regeneration work and paid for it out of its pocket. Under a forest management agreement, the ministry pays its own equivalent costs to a company to do that same regeneration work. Under normal labour practices, union agreements and so on, it costs a company more than the amount of money it is getting on a unit basis for the various types of work that it does.

Mr. Villeneuve: But it has improved the efficiency.

Mr. Tworzyanski: There is the efficiency aspect of it because the harvesting is now being planned with a view to the future silviculture. There are some efficiency gains in terms of that.

Mr. Villeneuve: Does your ministry get involved in directing the wood products to different sawmills under forest management agreements?

Mr. Tworzyanski: This is my understanding of the legislation. The FMA gives the rights to all species on the FMA area to a company. The section



of the Crown Timber Act on directives does not apply to an FMA unless you deal with a surplus area that is covered under an agreement. The existing directives are honoured under an agreement. That is part of the procedure.

Mr. Villeneuve: That is set out initially then. You direct the lumber to those sawmills.

Mr. Tworzyanski: Yes. Any existing directives for wood are covered under a forest management agreement. Technically, any new directives cannot be made unless they occur in areas surplus to the needs of the FMA holder.

Mr. Villeneuve: At the initial outset of a forest management agreement, who decides which sawmill in an area would be getting such and such volume of lumber? Who makes that decision?

Mr. Tworzyanski: That has generally already been decided in the past. Those are not new decisions being made. In the particular case of Hearst, those were not new decisions being made on who got how much; that already existed.

Mr. Villeneuve: It already existed from usage in the past. Are you talking about tradition here?

Mr. Tworzyanski: Both tradition and wood directives that go back in time--how far I do not know.

Mr. Villeneuve: Directives that come from the ministry?

Mr. Tworzyanski: Yes, that is correct.

Mr. Villeneuve: Those traditionally are not changed?

Mr. Tworzyanski: Generally no. Again, I am a little out of my depth in this, but there may be alterations for a variety of reasons: to normalize the wood flow, to balance out, whatever. I cannot get into that in too much depth.

Mr. Villeneuve: There would have to be a pretty good case made, I gather from what you say, to change a volume of wood going from one sawmill to another. There would have to be a pretty strong case to have a ministerial intervention here or a ministry intervention.

Mr. Tworzyanski: Yes, there would. For example, if the mill was harvesting its full amount, it would be difficult for me to see how that could be minimized unless there were changes in the mill. I cannot really speculate on that.

Mr. Villeneuve: Forest management agreements are quite obviously attractive or there would not be nearly as many requests for them as there appear to be. In the normal course of the Ministry of Natural Resources allocation of forest management agreements, are you faced with an increasing number of FMAs, or is there more or less a standard number that apply for new FMAs annually or is it on the decline?

Mr. Tworzyanski: Maybe I should clarify the process a little bit. Originally, when FMAs came up in 1979, it was a presentation by the industry in response to the Armson report of 1976 that indicated the people doing the harvesting should also have the responsibility for regeneration. The industry felt it would like to try to take this on.

There was a schedule of agreements set up back then. There were approximately 30 agreements back in 1979-80. The objective was to bring on the large companies first, then to work down to the smaller ones and then towards the independent operators. As such, that schedule has essentially been unchanged since about 1980-81.

In terms of applications or people lining up for agreements, it has not occurred. We are still dealing with the same list of people we started dealing with in 1979-80.

Mr. Villeneuve: Basically, the fairly large companies, the volume handlers of wood and lumber in the north, are the ones interested. Not too many of the small operators are interested.

Mr. Tworzyanski: I should clarify that. There has been interest expressed by smaller operators, but it has to be realized that an FMA is based on a sustainable piece of land. A lot of the smaller operators really do not have an operation large enough to have their own FMA. They have other opportunities to get into the system.

Mr. Villeneuve: Volume is the name of the game and regeneration of the forest industry comes from both governments and the harvesters or the sawmill owner-operators; therefore, it is a fairly closely knit situation. People have some apprehension about getting involved in this if they are not fairly large volume handlers.

Mr. Tworzyanski: There is some apprehension for the smaller operators because they find there is a financial commitment required on their part to get into it. Unless you are a little larger, in the long run it may not benefit you.

Mr. Villeneuve: Okay. Going back to timber rights, how can one have his timber rights, be they acreage or cords, increased?

Mr. Tworzyanski: Again, timber rights are generally related to existing plant capacity or ability to manufacture wood products. I really cannot say much more than that.

Mr. Villeneuve: Can they be increased?

11:10 a.m.

Mr. Tworzyanski: They could be if there are available timber rights in the area. There could be a plant expansion which again, technically, has to receive the approval of the ministry and, hence, a request for additional timber rights if there are any.

Mr. Villeneuve: I own a sawmill in the north and get a contract to export to parts of the United States. My capacity is such that I could handle considerably more cords or considerably more lumber. Could I conceivably come to you and get an increase in my timber rights?

Mr. Tworzyanski: One of the steps would be to come to ask for an increase. The other mechanism is to hit the open market for wood and see what is available. Generally, the majority of the area in Ontario that is licensable has been licensed; some of it may have surplus and some of it may not. The business end of a company that wants to increase production should look at its market to see whether there is an available supply or approach the ministry and indicate it is looking for a larger supply.



Mr. Villeneuve: With your knowledge of the Hearst area, which encompasses a large acreage, would most of the timber rights up there already have been allocated?

Mr. Tworzyanski: There will probably be some surplus area following the completion of a management plan, if the agreement ever gets on its feet. Whether the existing capacity is less than what is available on land base would have to run on the merits of pretty well pure forestry.

Mr. Villeneuve: You are saying the easily accessible areas, the economically accessible areas under today's value of wood, have basically been allocated in that general area.

Mr. Tworzyanski: They have not been allocated yet, because the planning process has not taken place. I am really trying to answer your question here. Let us say the majority of the available volume will be allocated.

Mr. Villeneuve: Without FMAs, the normal regeneration of the forests not covered under FMAs would be quite extensive. To make that area more economical and to make the use of the land and the sawmills more economical, FMAs are the only vehicle to promote or intensify the growth of the forest.

Mr. Tworzyanski: At this time, the FMA is the chosen vehicle to promote or enhance the growth of the forest.

Mr. Villeneuve: Can I gather from what you say that as the chosen vehicle it is the most economical and the best vehicle, and that is the reason it is being chosen over whatever other vehicles may be available?

Mr. Tworzyanski: That is a reasonable assumption in an economic sense. We had some questions before on the economics, and we were not qualified to get into the depth of it. At present, it is the best way to do it.

Mr. Villeneuve: In your opinion then, gathering from what you have just said, a large acreage of forest under an FMA is more economical and is a better patch of forest than one that is not under an FMA?

Mr. Tworzyanski: It has much better potential for forest management than if it is not under a forest management agreement, yes.

Mr. Bossy: The word "vehicle," which just came up, is interesting. The former vehicle was the government, and I believe the FMA has come to be because the government was not doing a good job of reforestation. I think that was well known.

In the past few years with the FMAs, has it not been the government trying to have the industry take over a job that it was not able to do or was not doing properly?

Mr. Tworzyanski: I will make a value judgement on one of your statements about whether the job was being done properly. That is a matter for debate. However, the issue of the volume of work required to maintain an area after it is harvested was such that it was felt it would be better to have industry do that. Its capacity to do that is much larger and its proximity to a land base is much closer than that of government, so that made more sense.

Mr. Bossy: The cost before to the government to try to do the reforestation was fairly high, but the money was not adequate. By managing it through the industry, with the industry, and the industry's pressure--it could see the future as not being too good, because I understand the Hearst area needs a tremendous amount of work in reforestation. The government transfer of the money that was set annually for reforestation, and this is really what we are talking about--this money is being offered to the companies, but they also have the responsibility of having to spend money of their own, in this case, where before they were not spending money. You are asking the industry now to help preserve its industry and stay in business. This is what the FMA is trying to achieve.

Mr. Tworzyanski: That is right.

Mr. Bossy: This has been very good information as far as natural resources are concerned and in giving us more knowledge about reforestation, but I want to know where Mr. Fontaine fits into the questioning this morning. I am trying to find relevance to what this committee is supposed to be dealing with; that is, the conflict of interest of René Fontaine.

Mr. Laughren: Is that a question?

Mr. Bossy: To the chairman, I say--

Mr. Chairman: The chairman is extremely patient this morning, as I usually am. I am waiting for somebody to make it relevant, and I am sure it will happen. I have faith.

Mr. Mancini: That is right. I am going to try now.

Mr. Chairman: I knew it; the heavy hitters are moving in now. Mr. Mancini; this will do it.

Mr. Mancini: Mr. Tworzyanski, on a lighter note, were you around in 1977--

Mr. Laughren: Around who?

Mr. Mancini: With the ministry?

Mr. Tworzyanski: If you are a little more specific, I can try to answer that.

Mr. Mancini: Were you with the ministry in 1977?

Mr. Tworzyanski: Yes, I was.

Mr. Mancini: Do you remember the famous Brampton charter? Do you remember when Premier Davis promised two trees for every tree cut?

Mr. Sterling: That was not Davis; that was Ian Deans.

Mr. Mancini: Is it not because the past government could not keep its promise of two trees for every tree cut that now they are turning to industry to try to do the job for them?

Mr. Villeneuve: You promised three trees for one in 1984.



Mr. Chairman: I have seen some deep-sea fishing in here, but that is the winner.

Mr. O'Connor: I was going to assist with the relevance issue and comment that as soon as we receive the documentation we have requested, I can assure my friends on the opposite benches that all our questions will become very relevant and to the point. Can I ask for an update on the location of those documents?

Mr. Chairman: I point out to you that you asked for them yesterday afternoon. This morning, the documents are being collated. We hope to have some of them this afternoon, perhaps all of them. The government is still not providing same-day service; nothing seems to have changed in that regard.

Mr. O'Connor: They are not even giving us two trees for every one.

Mr. Chairman: Yes. I am still waiting to count the two trees for one.

Any other questions of the witness? It has been raised on a couple of occasions now that you may want to recall this witness after you have seen the documents you requested; so we will leave it on that basis. If there are no further questions, we can let him go for now. We may want him to return when those documents are present. Does that seem like an agreeable way to proceed?

Mr. Mancini: Is this concerning the licences?

11:20 a.m.

Mr. Sterling: (Inaudible) the morning and come back in the afternoon.

Mr. Chairman: It may be, yes.

Mr. Bossy: Is this concerning the licences?

Mr. Chairman: Yes.

Mr. Bossy: If the signatures on these documents indicate that Mr. Pope, Mr. Harris, Mr. Sterling or whoever may have signed these licences, would it be in order to have them appear as witnesses about why they signed these documents?

Mr. Chairman: I will put it this way: You will have the same rights and privileges to move motions as any other member in here. If you get this group to carry the motion, we will ask them to appear as witnesses.

Interjection.

Interjection: As long as they are relevant.

Mr. Chairman: Mr. Mancini has one further point.

Mr. Mancini: On a more serious note--and we will not get into the Brampton charter now--volume V, packet 1, gave us the distribution in cords for the major, traditional operators in the Hearst area, a list of the municipalities where they operated and the cords of wood they took in those municipalities.

Mr. Tworzyanski: Is that the document requested the last time?

Mr. Mancini: It is dated July 25, signed by Mr. Markus, timber sales.

Mr. Tworzyanski: Okay.

Mr. Mancini: Let me try to put this in a little bit of perspective; it may help Mr. O'Connor out. Under where it denotes area in square kilometres, it says that United Sawmill Ltd. includes Arrow Timber, Polar Lumber, Mooseland and La Société Co-operative de Mattice. Since United Sawmill is the umbrella corporation that operates these other corporations, would it make sense to you that, when they are renewing their licences, to avoid unnecessary paperwork or confusion within the ministry or within the corporations, instead of giving the licences under United Sawmill, which is a new company that incorporated all these other companies, the licences be reissued under the names Arrow, Polar, Mooseland and the others I suggested?

Mr. Tworzyanski: I really cannot speak to that.

Mr. Mancini: You cannot say?

Mr. Tworzyanski: When we looked at the volumes that came off the area in terms of establishing the rights or equity for the three operators that would be on there, we looked at former harvesting by those companies, just as there are other companies that form part of the Levesque group, for example. We put the numbers together for ease of allocating or breaking up the timber.

Mr. Mancini: That is the point I am trying to make. There seems to be an intention here to build a case that people were applying for licences through companies that did not really exist.

Mr. Tworzyanski: I cannot speak to that aspect of it at all.

Mr. Mancini: We may need Mr. Markus.

Mr. Tworzyanski: Possibly, yes.

Interjection: We have one of them here.

Mr. Mancini: We may need him. I am open-minded. How about you guys?

Mr. Chairman: Is there any further business you want with this witness at this time?

Mr. O'Connor: Are we leaving it such that if the documentation arrives, he will come back at two o'clock?

Mr. Chairman: If that is agreeable to the committee. It seems reasonable to me that if the documents are available at two o'clock, we will ask Tom to come back at that time as well. We do have some time periods when we could reschedule at another day. What is your preference?

Mr. Mancini: I would like to come back this afternoon.

Mr. Tworzyanski: I think it is more reasonable to assume that the documents will not be available until late today or tomorrow morning.



Mr. Chairman: We have him on our list as a witness and, if you want to, you can recall him at a subsequent date. Is that a more reasonable way to proceed?

Mr. Treleaven: I have one point. To help Mr. Mancini and the rest of us, since we have had quite a few questions here that the witness is not expert in, will you entertain a motion to bring Mr. Markus back at the same time as this witness and at the same time as the documents?

Mr. Chairman: I would like you to let me dismiss this witness for now and then I have a couple of procedural things. That could be one item we could deal with.

Thank you very much, Mr. Tworzyanski.

Mr. Tworzyanski: Thank you.

Mr. Chairman: I want to update a few things. We are still having difficulty getting records from Polar Lumber. The difficulty is that we have not been able to make contact with anybody there. We have phoned repeatedly the person who is listed as being responsible for that company and have been unable to make contact.

Mr. Treleaven: I believe Polar changed its name to René Fontaine, etc. and then was one of the amalgamated corporations--

Mr. Chairman: But you asked specifically for records from Polar.

Mr. Treleaven: Correct.

Mr. Chairman: We will continue to try to do that.

Mr. Treleaven: But it would be the United solicitor or accountant.

Mr. Sterling: I think Cloutier signed all the applications for the timber licences.

Mr. Chairman: We will continue to try that. We just do not have those records as yet.

Mr. Treleaven: You are contacting Mr. Cloutier?

Clerk of the Committee: Lauryanne Joanis is the person I have been told to contact for those specific records, and I am having difficulty getting any answer at her home.

Mr. Chairman: We just cannot make contact with the person, that is all. We will continue to try that.

Is it your pleasure to sit this afternoon? Essentially it would be for the purposes of any motions you may have, and if these records come in, they could be tabled this afternoon and we would have the evening to look at them. Or would you prefer to leave that until tomorrow? It seems apparent to me that we are going to get these records late this afternoon or early tomorrow morning.

Interjection: There would be no sense.

Mr. Chairman: So we will not sit this afternoon.

I am assuming from a previous decision that when there is a large volume of paper, we do not duplicate it all and send it to all committee members. We will keep one copy in the clerk's office, and it will be available to you for your perusal. Is that an agreeable way to proceed?

We are having some difficulty with the Speaker's warrant. We will continue to try to ascertain how the warrant might be served. I do not have any further information to report to you on that right now. We are continuing to try to find a way to do that, but I tried to make you aware that there would be some difficulty in issuing a Speaker's warrant from this jurisdiction to someone who resided in another province. We are now encountering those problems.

We are also trying to reschedule so that the Premier (Mr. Peterson) can be available to the committee. He has indicated that he wants to. It is simply a matter of finding time, and I am trying to alert you now to accommodate that. It may mean an evening sitting or perhaps even an additional day at a time when we are not scheduled to sit, but we are trying to work that out.

Are there any other questions or comments from anyone?

Mr. Warner: Yesterday, you mentioned about possibly rescheduling Mary Eberts. The suggestion was for next Monday.

Mr. Chairman: We now have her listed as a witness to appear next Monday afternoon.

Mr. Warner: Next Monday afternoon. Will that be the end of the sitting? What are you suggesting?

Mr. Chairman: No. We have other witnesses.

Mr. Warner: What is next week's schedule?

Mr. Chairman: We gave you the preliminary list. The only change so far is that Mary Eberts is now going to be heard on Monday afternoon, probably at two o'clock. We will try to firm this up as quickly as we can, but we are trying to arrange the schedule so that the Premier can appear. Obviously, we have some time next week when he could do that, and that is about as good as I can give you for now.

Mr. Warner: That is fine.

Mr. Sterling: With regard to the motion I put forward yesterday to withhold tax credits and grants to Golden Tiger until Mr. Martin appears, I have two points. One, perhaps the clerk of the committee could inform the Star that the particular motion passed. Two, I read in another media account that the ministry was withholding grants at this time until this inquiry is over. Perhaps we can get some response to the chair on that matter so we are not getting it at second hand through the media.

Mr. Chairman: We can put in an inquiry to the ministry's office and see what response we might get from them. I will ask the clerk, if she sees Bill Walker anywhere in the halls, to tell him what happened yesterday. We may even send him a free copy of the Hansard. How would that be?



Mr. Sterling: I have heard of the Star being down on Tories, but not that far.

Mr. Chairman: Is there any further business to attend to?

Mr. Treleaven: Could I have a copy of the agenda for next week?

Mr. Chairman: We do not have it finalized yet. I gave you what I know verbally. She was scheduled for Tuesday morning, and we are now scheduling her for Monday afternoon.

Mr. Treleaven: In lieu of Tuesday morning.

I would like to make a motion that Mr. Markus come before us with Mr. Tworzyanski; that is, at the same time the documents turn up. One without the other is of little good.

Mr. Chairman: I am going to look for a little help here. The intent of the committee, as I understand it, is that it would be happy to do that now. I would actually prefer that you do not make that motion. You made an identical motion the last time around, as I recall, and it lost. I take it that I hear the committee asking to reconsider. It would be helpful if--

Mr. Mancini: Let us just invite him.

Mr. Chairman: Mr. Mancini moves that Mr. Markus be invited to attend as a witness.

Motion agreed to.

Mr. Treleaven: Thanks, Remo.

Mr. Chairman: Before we adjourn, I have asked each of the caucuses to provide me with one person, whoever is available, to assist us in going through the applications for the clerk's position. You made a request that a subcommittee be struck to go through that. It will be done in the last week of August. If I could have one designated person from each of the caucuses to do that, we could go through them and make recommendations for a short list to the committee.

We will adjourn until tomorrow at 10 a.m., when the witness will be Blenus Wright, the Assistant Deputy Attorney General.

The committee adjourned at 11:33 a.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

THURSDAY, AUGUST 14, 1986

Morning Sitting





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Morin

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Martel

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witness:

From the Ministry of the Attorney General:

Wright, B., Assistant Deputy Attorney General, Civil Law

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, August 14, 1986

The committee met at 10:09 a.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: I think we are about ready to begin this morning. Just before we start, the letter from the Ministry of Northern Development and Mines is on its way, informing us that the grants to Golden Tiger have been withheld pending the results of this hearing.

Mr. Sterling: Do we know who the letter is from?

Mr. Chairman: I have not received it yet; so I do not know who signed it.

Mr. Chairman: The second matter is--and I think you have a copy of it today--a slight revision to the schedule for next week. It will begin on Monday afternoon with Mary Eberts; then on Tuesday, Mr. Markus and Mr. Tworzyanski; on Wednesday, Dennis Tieman; and on Thursday, Michael Bourgeault. That is the schedule as we know it so far.

I have asked for a brief steering committee meeting at 1:30 p.m. in my office, room 350. We will attempt to go through some scheduling and organizational work and will try to report back to the committee this afternoon, if we can.

The witness this morning is Blenus Wright, who is the Assistant Deputy Attorney General. I am going to ask the clerk to swear in the witness and we will proceed from there.

Blenus Wright sworn.

Mr. Chairman: We are ready to proceed. Are there any questions? Do you have an opening statement or anything like that that you want to make?

Mr. Wright: No, I have not.

Mr. Chairman: Okay. Mr. O'Connor.

Mr. O'Connor: As has been indicated, Mr. Wright, you are the Assistant Deputy Attorney General. Is that correct?

Mr. Wright: That is correct; civil law division.

Mr. O'Connor: I understand you have been with that ministry for a number of years. Can you tell us how long?

Mr. Wright: Eighteen years.

Mr. O'Connor: Can you tell us the positions you have held since approximately 1970?



Mr. Wright: I was the assistant deputy in charge of courts administration. I had been in the civil law division prior to that and then became the assistant deputy in charge of civil law.

Mr. O'Connor: In the 1970-72 time frame, you were an assistant deputy minister at that time?

Mr. Wright: Yes, I believe so.

Mr. O'Connor: I understand, and correct me if I am incorrect, that you were involved with the drafting of the so-called Davis or 1972 conflict-of-interest guidelines. Is that right?

Mr. Wright: Yes, I had some input into those. I cannot recall how those came about or who all were involved in the drafting of those. That was some 14 years ago.

Mr. O'Connor: Can you tell us what your involvement was?

Mr. Wright: I cannot recall specifically. I believe there were a number of discussions, etc. I cannot recall who all were involved in the drafting of those.

Mr. O'Connor: My question was what your involvement was and not that of others.

Mr. Wright: I am not sure specifically what my involvement was 14 years ago.

Mr. O'Connor: It is safe to say you were certainly aware of them and their contents.

Mr. Wright: I was aware of them and the context. Subsequently, I was given the responsibility basically for the administrative overseeing of the compliance with the guidelines.

Mr. O'Connor: As I understand it, you were the person who--

Mr. Sterling: May I ask a supplementary here?

Mr. O'Connor: Sure.

Mr. Sterling: When guidelines are being drawn, whose guidelines are they? Are they the Attorney General's, or who are you representing when you are drawing those guidelines?

Mr. Wright: It is my understanding that they have always been the Premier's guidelines, because the Premier is the head of the executive council, in charge of the executive council. Since they are guidelines, he is the one basically responsible to see that his cabinet ministers comply with them.

Mr. Sterling: Normally, the direction for what was or was not in the guidelines would be his responsibility?

Mr. Wright: Yes, that was always my understanding.

Mr. O'Connor: I understand you were the person who, upon new cabinet ministers entering the cabinet, would have a meeting with them or a discussion

with them to outline the conflict-of-interest guidelines and to assist them in arranging their affairs to meet the guidelines. Is that right?

Mr. Wright: The usual procedure was, when a cabinet minister was appointed or there was a change in cabinet, the usual letter would go out to the cabinet minister or the parliamentary assistant, advising him of the conflict-of-interest guidelines, the requirements to comply with those guidelines; requesting information on real property holdings, mortgages and private and corporation shares; providing the forms and a blank trust agreement in the event there was to be a blind trust; and, subsequent to that, trying to be as helpful as possible in answering any questions or concerns, providing advice from time to time, and when the disclosure statement was finalized, being responsible for filing that with the cabinet office. Then the cabinet office filed one copy with the Clerk's office, which had public access.

Mr. O'Connor: You were the person responsible for each of the steps you have just described. Is that correct?

Mr. Wright: Yes.

Mr. O'Connor: Would you have met from time to time with individuals who had particular problems and explained how they could overcome them or meet the guidelines?

Mr. Wright: Yes, or discussed it over the telephone.

Mr. O'Connor: In the case of breaches of the guidelines that may have arisen from time to time--I am now speaking generally in the past--whose responsibility was it to enforce them or to correct any breaches that might have occurred?

Mr. Wright: From time to time, there would be questions raised as to whether a particular matter came within the guidelines. That may have been discussed previously with Dr. Stewart, who was deputy minister to the Premier. Then he would refer the matter to me. If it was necessary to provide an opinion, I may have provided an opinion on it. Basically, he would then take up the matter with the Premier, and the issue would probably be resolved then between the Premier and the particular individual.

Mr. O'Connor: In terms of enforcement generally, your information and perception was that it was the Office of the Premier that took care of that situation.

Mr. Wright: That is correct. They would ask for my advice. I would give them my best advice, and then it was taken from there, with the Premier and the individual cabinet minister.

Mr. O'Connor: In the case of breaches, what were the remedies available to the Premier?

Mr. Wright: I do not recall any specific breaches. There were always questions prior to any activity taking place. Through the whole history of this, I do not recall any specific breaches. It was always a preventive type of situation. In other words, if somebody wanted to buy a piece of property or invest in this, we would provide an opinion as to whether that fell within the guidelines, etc.

Mr. Callahan: On a point of clarification: Are you talking about the Davis years now?



Mr. Wright: Yes.

Mr. O'Connor: We know there are breaches now. We are just talking about the past.

Mr. Callahan: I just want to know whether he is answering that there were no breaches during the Davis years.

Mr. O'Connor: I think that is what his evidence is.

Mr. Wright: That is what I am referring to.

Mr. Laughren: It is a painful process.

Mr. Chairman: Why are you all being helpful this morning? Go ahead.

Mr. O'Connor: In your recollection, were there any changes effected to the guidelines that were first drafted and written in 1972 until the changes that came about under the Peterson government?

Mr. Wright: To my knowledge there were not.

Mr. O'Connor: Were there any specific circumstances wherein changes were requested or suggested to meet a difficulty that a minister or a couple of ministers were having?

10:20 a.m.

Mr. Wright: I recommended changes when the new government came in, from my experience over the past 14 years in dealing with the conflict-of-interest guidelines. Those changes were accepted and made.

There were basically two changes. One was with respect to the blind trust in private corporation interests. Prior, no private company in which a minister had an interest could contract with the government. From my experience, I thought that was too harsh a provision.

I had reviewed the federal government guidelines, which provided for blind trusts in private corporation situations, and felt they could deter qualified and competent business people from running for the Legislature. A blind trust agreement would be a way of getting around this reticence to have to sell all your private company interests to be elected to the Legislature, if you had a desire to become a cabinet minister. Therefore, I recommended that the guidelines be amended to provide that private company interests could be placed in a blind trust.

The other amendment concerned the question of benefits in common to citizens of the province. For example, if a grant is available to a particular business, the company of a cabinet minister or parliamentary assistant in that business should not be precluded from applying for that grant if it is available to similar businesses. That clarification was placed in the new guidelines.

To my knowledge, those were the only two changes to the guidelines.

Mr. Mancini: I have a supplementary on that. Would the Ontario mineral exploration program fall into that category?

Mr. Wright: I would have to know more about that program.

Mr. O'Connor: Did you ever recommend the changes you have indicated to the previous government?

Mr. Wright: I do not think I did specifically, although in some conversations and opinions I gave, when the situation came up with individual ministers, I would comment that I thought the guidelines were too harsh in those particular circumstances.

Mr. O'Connor: I think you have indicated to the other committee dealing with the subject that, in your opinion, the guidelines were softened or watered down--some such term--as a result of the recommendations you prescribed. Is that correct?

Mr. Wright: I think that may be a semantic problem. I do not think they are necessarily "watered down" by reason of simply changing a no-contract position to a blind trust position. The blind trust position is supposed to equal the fact that there is no input by the minister into any decisions between his company and the government while he is a cabinet minister.

It depends on how you categorize it. When you balance the reasons behind my recommendation to encourage good businessmen to seek political life, I believe it is much better in balance to have a situation where you can put your assets in a blind trust rather than to preclude qualified people from running and desiring to be cabinet ministers.

Mr. O'Connor: We need not dwell on this, but you will agree that the situation of being able to maintain certain valuable assets, albeit in a blind trust, is preferable from the individual's point of view, a more acceptable or easier route to follow than to have to sell them.

Mr. Wright: In effect, the answer to that question is obvious.

Mr. Callahan: Could I have a supplementary? Prior to your reviewing the guidelines, under the previous government of Premier Davis, if cabinet ministers received general grants that everybody in the province received, were they in fact in conflict?

Mr. Wright: Yes.

Mr. Callahan: It is a bit ludicrous.

Mr. Mancini: Did you all resign?

Mr. Callahan: Why did they not all resign?

Mr. Mancini: They should all have resigned.

Mr. O'Connor: I am content.

Mr. Chairman: Is that it?

Mr. O'Connor: No, I am not finished.

Mr. Sterling: Your indication of a blind trust is that the management of that particular asset is taken out of the hands of the



beneficiary, who is the owner of the shares. On the relationship between the trustee and the beneficiary, do you believe that should be at arm's length?

Mr. Wright: The trust agreement says there shall be no communication between the settlor and the trustee with respect to those business dealings. In other words, the settlor is to have no contact with the trustee and the trustee is to have no contact with the settlor, except providing a statement of income, etc., and perhaps receiving additional cash or whatever it is to invest. But with respect to any business decisions, the trust agreement specifically says there shall be no contact, no input from the settlor to the trustee as to what the trustee should do with those business assets.

Mr. Sterling: The problem with Mr. Fontaine is that the trustee has hired as an agent his former business partner, Mr. Cloutier, who also sits on the Northern Ontario Development Corp. board. I assume that because that comes under his ministry, he is in constant communication with Mr. Cloutier. Mr. Cloutier is also involved with Hearst Forest Management Inc.

Mr. Mancini: Mr. Sterling, you are wrong again. It does not come under the Ministry of Northern Development and Mines; it comes under the Ministry of Industry, Trade and Technology. Will you stop saying it comes under his ministry when it does not?

Mr. Sterling: If that is the case, I apologize for that particular--

Mr. Mancini: You have said it both times now.

Mr. Sterling: I know Mr. Fontaine has had quite a bit to do with the activities of the Northern Ontario Development Corp., as he would normally have, as the Minister of Northern Development and Mines. I guess that is the concern I have.

Mr. Wright: Mr. Sterling, in the real world, you have to appreciate that there are not many trustees which are trust companies, I believe, that perhaps desire or have the qualifications or the experience to administer a large family private corporation or a number of corporations. Therefore, I do not really see anything wrong with getting someone who knows the business, etc., some private person like Mr. Cloutier.

Mr. Cloutier swears an affidavit as part of the trust agreement that he will not discuss the private corporation dealing with the settlor, be it Mr. Fontaine or whoever it is. Mr. Fontaine is bound presumably by his trustee agreement, the same as everybody else, that he will not discuss with the private person who is responsible for the business dealings. I think you have to have some flexibility.

Mr. Chairman: Mr. O'Connor is not quite finished with his line of questioning. I would like to let him proceed, if I could, if it is a short one.

Mr. Callahan: I have a supplementary on this. Surely the trustee under the blind trust has an obligation to see that the assets do not just dissipate. He does not just blindly allow them not to take advantage of opportunities that would keep the business going. That would be nonsense. Otherwise, there would be no purpose of a trust; you may as well deposit them in the waste-paper basket.

Mr. Wright: That is why, I believe, that most trustees, i.e., trust companies, which is required under the guidelines, appreciate being able to have someone who is basically looking after the company in the interests of the cabinet minister.

Mr. Chairman: Floyd, did you have a supplementary?

10:30 a.m.

Mr. Laughren: Yes. Are we not really talking, Mr. Wright, about the difference between a blind trust which administers a number of shares in publicly held corporations, such as Bell Telephone, Gulf or whatever, and a blind trust which operates a private family business? You do not need specific expertise on running that individual company if the blind trust consists of shares in publicly held corporations. Is that not the problem that has arisen because of this?

Mr. Wright: I think so. It is much more complicated to take over a family business when the main person who has been running that business is no longer available to run that business and he is sacrificing some time for the public to run, to represent his constituents, to become a cabinet minister. He may be in that for five or 10 years. Who is going to run his business so that when he is no longer a politician he can go back to his private life and still have something he has worked his whole life for?

You are quite right; it is much more complicated to run a family business than it is to invest in a few Bell shares.

Mr. Laughren: When these guidelines were being drafted, was there specific thought or discussion about this particular kind of problem? It seems to me this should not have come out of the blue. With a company like this, there is going to have to be someone with expertise to control the blind trust; otherwise, what decisions will be made and in whose interest? Was that not considered when the guidelines were being drafted?

Mr. Wright: There were certain discussions as to whether, for example, the trust should be some type of frozen trust; in other words, the trustee would simply try to keep the business going but would not be able to sell off any of its assets, etc., no matter how badly the thing was being run, etc.

Mr. Laughren: With something like this corporation, decisions have to be made almost daily in running the operation. I do not know how you do it without having someone with expertise; it is beyond my comprehension. When something like a forest management agreement comes up, or the renewal of a licence, there has to be someone there who knows what it means.

Mr. Wright: Every situation is different--every individual has different assets to disclose; there are different types of companies, etc.--and the whole conflict-of-interest guidelines problem is in an evolutionary stage. It would be all well and good to be able to come up with solutions that would cover these situations, but sometimes you do not think of them until you are faced with a particular business and how it should be run; then you try to address your mind to how best it could work out, trying to avoid any possible conflicts of interest.



Mr. O'Connor: I have a lengthy series of questions I would like to ask. I do not at all mind the supplementaries and the interjections, as long as it is understood that eventually I can get back to my main line of questioning. I take it that is acceptable to everyone.

Interjection: Sure.

Mr. Sterling: Mr. Wright, I appreciate you have to have somebody involved who would know the business, or the trust company should have the right to hire somebody who would be knowledgeable in that business. However, I find it difficult to accept that the blind trust is anything but a sham if you have a former close business associate, a person who is currently involved with you in other matters relating to your ministry that you are involved in and who, as I understand it, has some relations contact as well.

I think the importance of conflict-of-interest guidelines is to show the public that there is an arm's-length relationship between your control over the asset and the benefit you might receive from that asset. I just wonder if the choice of Mr. Cloutier, who is also negotiating with the government for a forest management agreement that could be worth \$40 million to \$50 million over the next 20 years, does not make it a bit of a sham. I understand the interest. I understand that Mr. Gagné, who was before this committee on Tuesday, told us that he had recommended Mr. Cloutier be put there because he would not sell the shares of Mr. Fontaine. I just do not know how they can avoid contact because they are so close together.

Mr. Wright: I think you are wrestling with the real problem in all conflict-of-interest situations, the difference between a real conflict of interest and an appearance of a conflict of interest. When you try to avoid all sorts of appearances of conflict of interest, it is almost impossible. You have to decide whether it is to be Mr. Cloutier or another private person. That other private person advising the trust company might also be coming to the government and negotiating the same forest management agreement.

Mr. Cloutier has signed an affidavit. Maybe there is a close connection and maybe they do talk, but the point is that they are not supposed to be talking about Mr. Fontaine's private business affairs, and that is the question you have to ask yourselves. If they are not doing that, there is no conflict of interest.

If Mr. Cloutier is a person who is familiar with the businesses, what are Mr. Fontaine and his trustee to do, hire a third party who does not know anything about the businesses? Then you get away from a total appearance of a conflict of interest, but is that fair to the cabinet minister who has substantial holdings and wants to have something to go to when he is finished? You have to draw a line between the possible appearance and the actual issue of conflict of interest.

Mr. Callahan: I have a very brief question.

Mr. Chairman: Yes, I know. We are all very brief. You may understand the reluctance I have to take supplementaries. It is a little difficult when one of his own colleagues began the process to shut it off now, so I will not, but I am anxious to give Mr. O'Connor the opportunity to ask his questions.

Mr. Callahan: I will be very brief and let Mr. O'Connor ask the multitude of questions I am sure he has.

I will put the analogy of insider trading in a corporation, where a director has certain information that may enhance the shares and may make it worth while to buy the shares in advance of a certain date. If what my colleague Mr. Sterling says is correct, it means that fellow could never go home at night and could never talk to anybody. You are saying as long as he does not reveal the information he has, that is all right. That seems to make sense.

Mr. Wright: We all have to approach this with the idea that basically people are honest, and particularly people who run for office are not there to make money out of the deal. Therefore, you have to give a lot of credence to the fact that Mr. Fontaine has signed a trust agreement, his wife has signed a trust agreement and Mr. Cloutier has signed an affidavit. Unless there is evidence that it is being breached and there are discussions between Mr. Fontaine and Mr. Cloutier in regard to what should be done about a particular decision with respect to that business, I have great concern as to whether the whole system can ever work.

Mr. O'Connor: To follow up on that, unfortunately, I disagree with the general premise that there is a clear distinction between conflict of interest and the appearance of conflict of interest. It may be that most people are honest and it may be that most politicians do not want to make money out of the system; however, that is not the perception of the public about its politicians. Generally, the public has a low opinion of the honesty and integrity of its politicians. It is, therefore, necessary for us--

Mr. Callahan: Not any more.

Mr. O'Connor:--as politicians to be absolutely scrupulous and absolutely sure there is not only no conflict of interest, but also no appearance of a conflict of interest. I really think that avoiding the appearance in order to maintain the public integrity in the system is as important as avoiding the conflict of interest. That is a great difficulty that most politicians now face.

10:40 a.m.

Mr. Wright: Mr. O'Connor, I agree wholeheartedly with you, but I also think there is a concern that with the media hype and the paranoia over conflict of interest the politicians may be doing themselves more of a disservice, because the public gets the impression that there is something terrible going on here, that cabinet ministers are ripping off the public because of conflict of interest, when I suggest that is not so. Therefore, you have to look at both sides of the coin. What you are trying to do is increase the image of politicians in the eyes of the public. I am not sure this whole exercise, with the Caplan and the Fontaine affair, is really doing that. It may just do the opposite.

Mr. O'Connor: What would you have us do then? The revelations having been made, should we discontinue any further discussion of it and sweep it under the rug? Surely we have to have an inquiry to achieve exactly what you are suggesting, to get to the bottom of whether there has been a conflict or not. It is a catch-22 situation. I realize that. The inquiry itself creates public discomfort and lack of confidence, but we cannot simply make the allegations and leave them hanging. That is not fair to anyone.



Mr. Wright: I realize that. It is a very difficult situation, but the answer then comes down to the dividing line between an appearance of conflict and an actual conflict.

Mr. O'Connor: That is where we disagree. I think the appearance question is as important, perhaps more important, than the actual conflict, because there will be many more circumstances and instances where the appearance of a conflict is at stake rather than the actual conflict, because probably most people are honest and do not breach the guidelines.

Mr. Wright: It is the impression that is left with the public.

Mr. O'Connor: All right. If I can get back to the general questioning, you have indicated that you were involved in advising the new cabinet ministers with respect to the present government on the conflict-of-interest guidelines. With regard to Mr. Fontaine, can you tell us when, if ever, you met with him?

Mr. Wright: I do not believe I have ever met Mr. Fontaine. I may have. I do not even believe I have ever talked to Mr. Fontaine on the telephone.

Mr. O'Connor: We heard evidence from his accountant that on June 9, 1985, he met with Ms. Eberts, whom I assume you know and have met with, and with Mr. Fontaine on the morning of that day; and that in the afternoon Mr. Gagné and Ms. Eberts then met with you. Is that correct?

Mr. Wright: Yes. I believe so.

Mr. O'Connor: Can you tell us about that meeting and what was discussed?

Mr. Wright: I cannot. As far as I know, that was prior to any indication that Mr. Fontaine might become a cabinet minister. I think it was the question of his interest in United Sawmill and the forest management agreement. At that time, if you were simply an MPP, you would be governed by sections 10 and 11 of the Legislative Assembly Act. That in itself is interesting, because there is an exemption from contracts with the government if you are just an MPP. If you are a shareholder in a corporation, then you are exempt.

I have always interpreted that provision that surely it never meant that if you were a majority shareholder you could contract with the government with no problem, but clearly that is what the specific language of the section says. I have always provided advice that it meant that if you had only a few shares in a corporation you were exempt, but if you were a major shareholder you would not be exempt.

In the case of an MPP, my advice was that there would clearly be a conflict of interest or certainly an appearance of a conflict of interest, but that the whole situation would change in the event of a person becoming a cabinet minister or a parliamentary assistant, because the guidelines at that particular time were the old guidelines and, therefore, no private corporation in which a cabinet minister had an interest could contract with the government. Subsequently, by reason of the amendment, the blind trust came into force.

Mr. O'Connor: At that meeting, did you discuss the shareholdings Mr. Fontaine had in Golden Tiger or any companies other than his sawmill companies?

Mr. Wright: The first time I knew anything about Golden Tiger shares was a letter Mr. Fontaine wrote to me dated January 29, 1986. That arose out of a previous telephone conversation between Lorrie Goldstein of the Sun and myself on the same date when he was querying whether Mr. Fontaine had disclosed an interest in Hearst Forest Management.

When I was running that down, I found that Hearst Forest Management was basically a subsidiary of United Sawmill Ltd. We were then just in the process of getting all the cabinet ministers' statements of disclosure for filing, so I suggested that if there is an existing company called Hearst Forest Management and it is a subsidiary of United Sawmill, then on the disclosure statement we should list Hearst Forest Management under United Sawmill.

I received the letter from Mr. Fontaine dated January 29, and accompanying that was the explanation with respect to Hearst Forest Management being a subsidiary of United Sawmill, but on that particular page there was also a notation of Golden Tiger shares. That was the first time I had any knowledge of Golden Tiger shares.

As soon as I had knowledge of Golden Tiger shares, on January 31, I followed that up. I called the deputy minister, Mr. Tough, at the Ministry of Northern Development and Mines. I raised the issue with him, and he advised me by telephone that those shares had been sold. Since those shares had been sold, as far as I was concerned that was the end of my involvement with Golden Tiger shares until subsequently the confusion came out over the escrow shares, etc.

Mr. O'Connor: I take it at the meeting with Ms. Eberts and Mr. Gagné, the elaborate, lengthy questionnaire that all members were required to complete was not produced and discussed?

Mr. Wright: No.

Mr. O'Connor: Who drafted that questionnaire? Was that your work?

Mr. Wright: No. I presume that was Mary Eberts's work.

Mr. O'Connor: Is it fair to say that your role vis-à-vis the prospective and then cabinet ministers in the Peterson government was somewhat different from what it had been with regard to prospective and actual cabinet ministers in the Davis government in that previously you had a hands-on relationship in advising and guiding whereas in the new situation that role fell primarily to Ms. Eberts?

Mr. Wright: I believe Ms. Eberts was retained to advise the incoming government; therefore, she did a lot of work, prepared the questionnaire, etc. I was not party to any of those discussions. I tried to be as helpful as I could, but you are quite right; I did not have complete control of what was happening.

Mr. O'Connor: Did she communicate with you from time to time?

Mr. Wright: From time to time, yes.

Mr. O'Connor: How often would that have been over the summer of 1985? Were there meetings? Were there telephone calls?



Mr. Wright: A few telephone calls. I expressed to her my views with respect to the old guidelines. I made my recommendations, and presumably she took my recommendations and discussed them with someone in the Office of the Premier. She sent me copies of the proposed drafts, and I commented on those; I made a few minor changes, etc.

Mr. O'Connor: She was your primary contact then? She was the one to whom you made the suggestions about amending the guidelines?

Mr. Wright: That is correct.

Mr. O'Connor: Did you have communication with anyone else in the Premier's office?

Mr. Wright: Not to my knowledge.

Mr. O'Connor: I think the Premier has stated in the House that he had not met you up to the point when he said that, which was in February or March of this year.

Mr. Wright: I had been in meetings with the Premier. I guess he just did not know who I was.

Mr. O'Connor: Did you meet with any of the cabinet ministers or prospective cabinet ministers to assist them with the guidelines, or was that all Ms. Eberts?

Mr. Wright: I had met with a few people prior to any cabinet appointments.

10:50 a.m.

Mr. Callahan: I would like to go back. When Mr. O'Connor asked you about the previous government, you indicated that you were in complete control, as opposed to the situation you have indicated occurred afterwards. You also told me there were no conflicts. I do not want to go back in ancient history, but I am a neophyte in this process. Surely to God there were conflicts in the earlier government. Who handled those? Were there committees such as this set up to deal with them, or were they dealt with by the Premier?

Mr. Wright: I think most of the problems that arose were basically dealt with among Dr. Stewart, the Premier and whoever was involved.

Mr. Callahan: It never got out of the Premier's office? It never got to a committee such as this, and you never even got to see it?

Mr. Mancini: They were majority governments.

Mr. Wright: I would have provided advice from time to time.

Mr. Callahan: I want to finalize that. When you say there were no conflicts in the previous government, you are saying there were none you had to deal with; but there were certainly many conflicts, as I recollect.

Mr. Wright: What I said was--

Mr. O'Connor: Whom are you talking about, Mr. Callahan?

Mr. Callahan: I am just trying to clarify, to put it in perspective. My friend Mr. O'Connor is going through the--

Mr. Chairman: I do not mind a supplementary question to elicit information, but if you want to have a political argument, I suggest we discharge the witness and we can do that.

Mr. Callahan: Then maybe he can answer the question: You were not directly involved, but there were in fact conflicts?

Mr. Wright: The statement I made was that I did not know of any situation in which there was a breach of the conflict-of-interest guidelines.

Mr. O'Connor: When did you first see the questionnaire that all cabinet ministers were required to complete?

Mr. Wright: I am not sure. There was perhaps some confusion at the time I wrote my September letters to all cabinet ministers. Some of the responses I got back said, "I have already filled out all this information," and that was the first time I knew this process had taken place.

Mr. O'Connor: This may be helpful. You have indicated the first time you knew of the Golden Tiger shares was in January 1986.

Mr. Wright: Yes.

Mr. O'Connor: They were revealed in that form.

Mr. Wright: They were revealed in that; therefore, I did not--

Mr. O'Connor: You would not have seen the form before then?

Mr. Wright: That is correct.

Mr. O'Connor: You do not know who drafted that form then?

Mr. Wright: I am presuming that Mary Eberts can advise you on that.

Mr. O'Connor: Was it ever indicated to you that you had a specific responsibility in all this, and who was it and what was your responsibility? Do you recall?

Mr. Wright: Basically, I was carrying on in the same fashion I had carried on previously, doing the same thing I had always done.

Mr. O'Connor: As we know, the guidelines changed some time over the summer of 1985. You indicated there were drafts back and forth to you. Do you recall how many?

Mr. Wright: I think I just commented on one draft.

Mr. O'Connor: The final draft?

Mr. Wright: Yes.

Mr. O'Connor: When would that have been?

Mr. Wright: Some time prior to September.



Mr. O'Connor: Do you know who did that draft?

Mr. Wright: Presumably it was Mary Eberts. I do not know who assisted her. You can get that information from her.

Mr. O'Connor: Did you have any discussion with her as to why that particular wording was used? Was there any indication that it was to accommodate any particular person or persons who were entering cabinet?

Mr. Wright: I have told you about the two major changes. Really, they were the basic Davis guidelines with those two changes. As I recall, I made only some minor grammatical changes to her draft and sent it back to her.

Mr. O'Connor: Did you have any discussion with her as to why those particular changes were being made? You have indicated it was your advice, and I ask you why.

Mr. Wright: Those were my recommendations, so I understood the background of those; therefore, it was not necessary for me to ask her, "Why did you make these changes?"

Mr. O'Connor: It was indicated yesterday by Mr. Gagné that he had received a copy of a letter Ms. Eberts sent to Mr. Fontaine in July, telling him to sell his Golden Tiger shares. I take it from your earlier evidence that you did not get a copy of that letter.

Mr. Wright: I did not receive a copy of that letter.

Mr. O'Connor: You sent out a letter on September 23, a copy of which we have, advising the minister's requirements to adhere to the guidelines.

Mr. Wright: That is correct.

Mr. O'Connor: Were you involved thereafter in the overseeing of what was to be done in accordance with the instructions in the letter?

Mr. Wright: Yes.

Mr. O'Connor: Was that your responsibility?

Mr. Wright: Yes.

Mr. O'Connor: Was Ms. Eberts still involved in the process?

Mr. Wright: Basically, no, except I believe she was involved as Mr. Fontaine's lawyer in drawing up the trust agreements, etc.

Mr. O'Connor: To go back to another point, you indicated that when you learned of the Golden Tiger shares in January, you immediately inquired as to the status of that situation and found they had been sold.

Mr. Wright: Yes. That was the first time they were drawn to my attention; so I said, "These are shares which are listed as owned by the Fontaine family." I queried what had happened to those shares and was advised that those shares were sold. Since the shares were sold, that ended my involvement.

Mr. O'Connor: I take it your concern was that they were shares in a mining company that was receiving grants from the province and he was the

Minister of Northern Development and Mines. A bell went off in your head to do something about that.

Mr. Wright: I was not concerned at that time whether there were grants received from the government. All I was concerned about was the ownership of these particular shares, which I had no knowledge of prior to receiving that information, and therefore I wanted to follow it up.

Mr. O'Connor: I presume it was very clear to you, as the expert in the area of conflict-of-interest guidelines, that he was the Minister of Northern Development and Mines, that these were shares in a mining company that was receiving grants--this information was in his form--and that this was not just an appearance of conflict of interest but might be more serious than that, so something should be done immediately.

Mr. Wright: You start with number one: Does he own the shares?

Mr. O'Connor: I am concerned about whether he owns the shares because of two, three and four.

Mr. Wright: Not necessarily. In other words, it was the fact that I had no disclosure of these shares before. There must have been some reason there was no disclosure of those shares by Mr. Fontaine. The first question that comes to my mind is whether he still owns the shares. When I inquired on the status of those Golden Tiger shares, the answer I got back was that those shares had been sold. That was fine. That was why Mr. Fontaine did not provide those shares in his disclosures.

Mr. O'Connor: What would your advice have been if he still owned them?

Mr. Wright: I would have proceeded further to determine what their status was and why they had not been disclosed.

Mr. O'Connor: If you had found, as the fact was, that they were mining shares, that he was the Minister of Northern Development and Mines and that the company was receiving grants from the government, what would your advice have been?

Mr. Wright: I would have pointed to the guidelines, which indicate that when a minister has a beneficial interest in a matter that comes before his own ministry and involves a discretion in government, he is to advise so another minister can be appointed to deal with that issue.

Mr. O'Connor: Your advice then would not have been to get rid of the shares quickly? You did not think that was necessary in the circumstances?

Mr. Wright: Not in the circumstances, because the guidelines specifically provide for that eventuality.

Mr. O'Connor: The amended guidelines.

Mr. Wright: No. Even the previous guidelines.

Mr. O'Connor: The previous guidelines would have allowed him to hold on to the Golden Tiger shares?

Mr. Wright: The previous guidelines were exactly the same. If a matter in which a minister had a beneficial interest came before the ministry



in which he was the minister, he was to advise the Premier's office and another minister would be appointed to deal with that particular issue.

11 a.m.

Mr. O'Connor: I am back again to your letter of September 23, where there were certain time frames given to do certain things. Is that correct?

Mr. Wright: That is correct.

Mr. O'Connor: As far as you know, were all the time limits met in the case of Mr. Fontaine?

Mr. Wright: Mr. Fontaine was a bit late in getting in his trust agreements; I think it was between Mary Eberts and Canada Trust in Ottawa in getting them, getting them signed, getting them back and getting them to me.

Mr. O'Connor: In all other respects did he comply with the requirements of your letter?

Mr. Wright: Yes.

Mr. O'Connor: Although not the tabling requirements, I take it?

Mr. Wright: He gave me the information, presumably, that he knew about at that particular time.

Mr. O'Connor: Was this information not all to be made public and tabled with the Clerk by the end of the year?

Mr. Wright: I was preparing the two disclosure books of cabinet ministers and parliamentary assistants, gathering them all together so that I could file them all at the same time rather than filing them piecemeal.

Mr. Callahan: Just a clarification on that, Mr. Wright. Was it your responsibility to see they were tabled?

Mr. Wright: Yes.

Mr. O'Connor: Until the new guidelines were in place and until you had written your letter of September 23, is it your opinion that the ministers were bound by the previous guidelines?

Mr. Wright: I had assumed they were, yes.

Mr. O'Connor: Was there any discussion about that with Ms. Eberts or anybody else?

Mr. Wright: No, not to my knowledge.

Mr. O'Connor: It was not your advice to them then that, "Until we revamp these guidelines, you have to obey the old ones."

Mr. Wright: It was my view that those were the ones that were in existence and, until changed, they governed.

Mr. Callahan: A further supplementary. I just want to clarify something Mr. Wright said. I gather that under the Davis guidelines, if a

cabinet minister had held a beneficial interest either through a corporation or whatever in a particular commodity or business that had an effect, directly or indirectly, on his ministry, it was permissible that he continue to have those, and all that would happen would be that another minister would be asked to make decisions with reference to whatever that benefit might be?

Mr. Wright: That is right.

Mr. Callahan: That was under the Davis guidelines?

Mr. Wright: Yes.

Mr. Callahan: That continued under the Peterson guidelines?

Mr. Wright: Yes.

Mr. Callahan: It was a similar situation to, say, under the municipal conflict-of-interest rules where a council member simply absents himself from the vote if something where he feels he has a conflict comes up at a council meeting.

Mr. Wright: Such council members disclose their interest and do not take any part in the discussion or the voting on that issue.

Mr. Callahan: I gather you were around and involved in the preparation of the municipal conflict-of-interest rules.

Mr. Wright: Yes. Basically, I think that was sort of the beginning in Ontario of conflict-of-interest legislation and guidelines. Dr. Stewart was the chairman of the committee, and I was the secretary. The Deputy Attorney General at that time was Frank Callaghan.

Mr. Callahan: No relation, by the way.

Mr. Wright: We prepared a conflict-of-interest report, and that evolved into the Municipal Conflict of Interest Act. Out of that came the guidelines for cabinet ministers.

Mr. Callahan: When the municipal conflict-of-interest legislation was being put together, there was a great deal of discussion about the question of real conflicts. The decision was that the municipal conflict legislation was probably as far as you could reasonably go to avoid not only an actual conflict but also an apparent conflict.

Mr. Wright: That is correct.

Mr. Sterling: I was interested when you were talking to us about the Legislative Assembly Act. When a minister puts forward his disclosure, do you consider that act as well?

Mr. Wright: Basically, I perceive the guidelines to be more restrictive than the Legislative Assembly Act, but I also perceive that everybody is still bound by the Legislative Assembly Act.

Mr. Sterling: You mentioned that under the Legislative Assembly Act, it is not possible to be a major shareholder in a company that contracts with the government. Am I correct?



Mr. Wright: No. It depends on how you interpret that. If you take the pure language, it is; but I have always advised the government that surely it was never intended that section would apply to a major shareholder.

Mr. Sterling: A minor or a major shareholder?

Mr. Wright: To a major shareholder. In other words, a major shareholder should not be exempt, but a minor shareholder should be exempt. I think that was the intention of the Legislature at that time. But if you take the specific words of the section, it says you are exempted if you are a shareholder of a corporation which has a contract or agreement with the government.

Mr. Sterling: In Mr. Fontaine's particular case, he is a major shareholder of United Sawmill--

Mr. Wright: Right.

Mr. Sterling: --which is a half owner of Hearst Forest Management Inc., which is currently negotiating a contract with the government of Ontario. We have the situation where Mr. Fontaine, if elected as the member of provincial parliament for Cochrane North today--

Mr. Mancini: About 9:30 tonight.

Mr. Treleaven: The Libertarian from Oxford will win.

Mr. Sterling: --and if Hearst Forest Management Inc. signed a contract with the government of Ontario, he would be disqualified. Is that what you were telling us?

Mr. Wright: There are two interpretations you can give to section 11 exemptions. You can give a strict interpretation, which says he has an exemption because he is only a shareholder of that corporation. I do not think that is a good interpretation of that section. I do not think it was ever intended to apply to a person in Mr. Fontaine's situation. So I have always advised the government that clearly, if you are a major shareholder, you cannot contract with the government under the Legislative Assembly Act. The exemption does not apply. That is my interpretation. Someone else may just simply say, "Well, if the Legislature intended your interpretation to govern, it should have made the words more specific."

Mr. Sterling: So you are telling me that the election today of Mr. Fontaine is going to prevent the Hearst area from getting a forest management agreement as it now exists.

Mr. Mancini: That is not what he said.

Mr. Wright: If you accept my interpretation.

Mr. Sterling: Yes, that is what he said.

Mr. Callahan: Can I have a clarification?

Mr. Sterling: Amazing.

Mr. Callahan: You are talking about major shareholders. If a person is the majority shareholder, surely that is the case. What are we talking about major if he is a minority shareholder, but a major shareholder? Surely to heaven within the range of corporate law, a minority shareholder cannot influence one way or the other the actions of a company. He could as a director, but not as a shareholder. I think that has to be clarified as to whether the statement Mr. Sterling is making is accurate.

Mr. Wright: All I am just saying is there is a problem with how you interpret that section, because you could have someone with 49 per cent and someone else with 51 per cent. Does that really make a difference?

Mr. Warner: Mr. Wright, I want to return briefly to one area just to clarify with respect to the concept of blind trust and the benefits in common which you mentioned. You told us you felt that during the Davis years that it would be an appropriate and progressive thing to do to make the necessary alterations in the conflict-of-interest guidelines. Was that by way of a casual conversation, or was it ever put in writing? How formalized did you make your suggestions to the previous government?

Mr. Wright: In advising particular cabinet ministers, I would advise that I thought the situation was harsh, that I did not see why, if there were particular grants available on an equal basis to a particular type of business, the cabinet minister's family should not be able to receive that, particularly when it involved a decision of another ministry. It may be a decision which the minister himself and another ministry might not make. Therefore, I felt that was prejudicing a cabinet minister's business.

Mr. Warner: But did you formalize this in any way by doing a memo to the Premier or to Dr. Stewart?

Mr. Wright: I would have provided an opinion to the minister with a copy to Dr. Stewart.

Mr. Warner: So these two concepts are ones which you were discussing or promoting during the past administration.

Mr. Wright: Yes.

11:10 a.m.

Mr. Warner: I prefer to deal with these things straightforwardly. There is a notion floating around that the conflict-of-interest guidelines were changed to protect at least Mr. Fontaine and Ms. Caplan, and possibly the Premier (Mr. Peterson). Can you put any credence to that notion?

Mr. Wright: I think that is totally false because these were my recommendations before there was any change in the government or before I knew the nature of any cabinet minister's assets. I did it on the basis of a general reasonable principle.

Mr. Warner: You were not surprised when you got the notification, I guess through Ms. Eberts, that these particular changes were being contemplated?

Mr. Wright: Not at all, because I was the one who specifically recommended the changes.



Mr. Warner: I have no more questions.

Mr. Chairman: Mr. Sterling.

Mr. Mancini: I thought he had his turn.

Mr. Chairman: I keep looking around. You put your little hand in the air and you get on the list.

Mr. Sterling: In addition to the blind trust agreement which Mr. Fontaine filed, were other blind trust agreements filed for other ministers of the government?

Mr. Wright: Yes.

Mr. Sterling: How many were there?

Mr. Wright: I would have to have the disclosure book that is filed with the Clerk and that advises you how many. Clearly, the Premier has a blind trust agreement. Mr. Sorbara and Mr. Fontaine have blind trust agreements. If I had the book, all I would need to do is to go through it. The statements of disclosures indicate what ministers have placed their holdings in a blind trust.

Mr. Mancini: Did Mr. Sterling have one when he was a minister?

Mr. Warner: He still has.

Mr. Wright: Probably, as a practising lawyer, Mr. Sterling would not have enough assets to--

Mr. Callahan: He has a bucket and a paint brush.

Mr. Chairman: We are on a roll. Why not go ahead?

Mr. Sterling: I do not think I could win if I responded either way on that question.

Mr. Wright, are the trust agreements available for public view?

Mr. Wright: I presume they are. The idea of the blind trust is that you put your assets in a blind trust. Is it then necessary that people know what those assets are; what schedule A says? That situation would have to be taken up with the Premier's office. I have always kept the trust agreements on a confidential basis. Why does a cabinet minister have to disclose all his assets if they are in a blind trust?

Mr. Sterling: You do not think they should be subject to public view?

Mr. Wright: I think there are perhaps good reasons that they should not be.

Mr. Sterling: What about any agreements between an agent and the trust company? Are they filed with you as well? For instance, do you have a copy of the affidavit of Mr. Cloutier?

Mr. Wright: Yes. I do. Those were filed with me.

Mr. Sterling: And there are trust agents in the other trust agreements as well?

Mr. Wright: Yes.

Mr. Sterling: Are you willing to reveal to us who those trust agents are?

Mr. Wright: In Mr. Sorbara's case, there is a co-trustee.

Mr. Sterling: There is a co-trustee.

Mr. Mancini: Mr. Chairman, on a point of order: Does this have to do with the Fontaine inquiry?

Mr. Callahan: It is called fishing.

Mr. Chairman: I am waiting to see whether it does.

Mr. Callahan: He is going to reel it in in a second.

Mr. Sterling: I was just trying to establish the general procedure here on what these blind trusts mean in the final analysis.

Mr. Mancini: Surely you should know as a former minister.

Mr. Villeneuve: The rules were changed.

Mr. Mancini: Not to the extent that you are trying to make it.

Mr. Chairman: If you want to have an argument, we will have that, but there is no sense calling witnesses and arguing amongst yourselves. If you want to bicker, go outside in the hall and bicker. We have a witness in front of the committee.

Mr. Sterling: You mentioned that Mr. Sorbara had an agent.

Mr. Wright: Yes, a co-trustee.

The blind trust agreements are all the same whether you have an agent, trustee or co-trustee. They say that you undertake not to discuss any of the business dealings. That is the whole secret of blind trusts.

In other words, you are not supposed to know what the trustee, agent or co-trustee does with any of your assets. You are to have no input. They are not to come to you to ask what they should do. That is a blind trust agreement. That is why people enter into them. They undertake that they will not discuss it. If they do, they are breaching the trust agreement and the guidelines.

Mr. Sterling: Does Mr. Peterson have a co-trustee?

Mr. Wright: I do not believe so, although I will have to check.

Mr. Sterling: Will you check that for me and report to the committee, please?



Mr. Chairman: You are out of the lake now. Keep the line in the water, will you?

Mr. Callahan: Do you want to see my will too, Norm?

Mr. Sterling: I am just trying to establish how serious this government considers the whole conflict of interest guidelines to be.

Mr. Chairman: You will have lots of opportunities to do that all fall.

Mr. Wright: I think the government considers it very important.

Mr. Sterling: You mentioned before the standing committee on public accounts that you considered the Peterson guidelines weaker than the Davis guidelines. Is that correct?

Mr. Wright: I tried to clarify that. It is a matter of semantics. Is there any difference between no contract with the government and a blind trust agreement in which you have no input into any decisions or contract with the government?

To me, it is a reasonable accommodation for citizens with substantial private interests to get into government without having to sell all their assets. As I see political life, you make a big enough sacrifice to represent the public without having to cast away a whole life's work in order to become a politician and be a cabinet minister.

You want to encourage good business people to get into government. That is why I made the recommendation from my experience in dealing with these matters; that is why the federal government has recognized it and has a provision for a blind trust agreement.

However, if you are going to say, "You have to sell all your private assets before you can do it," it is a deterrent to people becoming interested in representing the people of the province.

Mr. Callahan: Surely if the guidelines were so stringent that nothing could take place, it would mean that if someone were appointed to cabinet, his or her spouse would have to stay home and look after the house. The only people who could be appointed to cabinet would be those who had no assets whatsoever.

You indicated that the present guidelines--and perhaps even the Davis guidelines--require a minister to absent himself where a contract of relevance to his blind trust is being discussed. Another minister then takes over the responsibility. Surely those are the same criteria used in the municipal conflict-of-interest guidelines, where the public sees the member absenting himself either by means of a memo on a record or by actually leaving a council meeting. Surely that creates a much greater perception of integrity to the public than the blind trust that seems to be suggested here, where a person has to get rid of everything.

11:20 a.m.

I will give you an example that strikes me as very odd. I remember sitting on a council in which one of our members used to declare a conflict of

interest with the local golf club because her husband was required to hold one share in the golf club. If you carry things to that extent, you would have nobody in cabinet.

Mr. Chairman: I told you it would be a pearl. I am sure there was a question in there somewhere; I missed it myself.

Mr. Callahan: I was just following along the lines of some of the other questioning, a lot of them with statements putting words in Mr. Wright's mouth and asking him yes or no. It sounds like the House.

Interjections.

Mr. Wright: There is always a danger of becoming too restrictive. You want a system that is going to work. You want something that is flexible. If you try to put everything down in black and white and say you cannot do this, you cannot do that, then I suggest that you lose the flexibility of the system. This is where you get into the question of an appearance of conflict or a real conflict. Basically, if you are going to come down on the side that there can be absolutely no appearance whatsoever of any conflict of interest, notwithstanding that there may not be one iota of a conflict of interest, then the only guideline you need is there shall be no appearances of any conflict of interest.

Mr. Sterling: I want to get down to the sanctions involved in our deliberations. First of all, under the Legislative Assembly Act, if you are in contravention of section 10 and you are not exempt under section 11, then what is the penalty as far as this particular act?

Mr. Wright: I believe it says you are not qualified then to sit as a member. I think you would have to go through a motion in the House, etc.

Mr. Sterling: You would have to resign your seat then. In terms of the conflict-of-interest guidelines, if you are in contravention of the conflict-of-interest guidelines, what is the sanction under those particular guidelines?

Mr. Wright: I have always perceived that that was the purview of the Premier to determine what should be done in a particular situation. If a cabinet minister is in breach of the guidelines and does not resign, then presumably it is in the hands of the Premier to determine what should be done with that particular cabinet minister.

Mr. Sterling: So it is up to the Premier to make a decision as to whatever the penalty shall be if a minister falls outside of the guidelines?

Mr. Wright: I think you start with the premise that the guidelines from the beginning have been the Premier's guidelines which govern his cabinet ministers. Therefore, if there are any breaches of those, it is up to the Premier to determine what should be done in particular circumstances. There are no specific sanctions set out in the guidelines.

Mr. Sterling: In your letter of September 23, for instance, you said that the disclosure should be made before the end of the year.

Mr. Wright: Yes.



Mr. Sterling: I presume you meant December 31, 1985. Did you mean disclosure to you or disclosure to the public?

Mr. Wright: Disclosure to me.

Mr. Sterling: Therefore, would the guidelines which say the disclosure shall be "by the end of the year" not mean "to the public"?

Mr. Wright: We gave the cabinet ministers a date to get their information in. After that time, we have to assemble it, get the books ready and file them, and as soon after that as we could get that process done, they would be filed. They had until the end of December to provide me with the information.

Mr. Sterling: You did not consider the fact that everybody was a month late was a breach of the conflict-of-interest guidelines?

Mr. Wright: Everybody was not a month late.

Mr. Sterling: They were as far as I was concerned, because I am a member of the public. It is a major problem.

Mr. Wright: Mr. Sterling, it is administrative. This is where I say you have to put some flexibility in the system.

Mr. Sterling: The problem is that Mr. Fontaine in his January 31 statement claimed an interest in seven corporations. In June, he claimed another four. When he appeared before this committee, he claimed another five. How much flexibility do you allow Mr. Fontaine, or how much flexibility do you allow members of this government?

Mr. Wright: Simply because there has not been complete disclosure under the guidelines does not mean there is a conflict of interests.

Mr. Sterling: Why have disclosure then?

Mr. Wright: You have to decide: By reason of the fact that he did not disclose his shares in Nordex, for example, is he in a conflict of interest within the guidelines? The conclusion you come to, that he has not disclosed them, does not answer the second question: By reason of not disclosing those shares, has he been in a conflict of interest? You have to separate those two.

From my brief knowledge of Mr. Fontaine's business affairs and the way he operates, there is a very good reason: He did not know. His own accountant and his own lawyer--and I do not think, perhaps until he made his statement here before the committee, he himself really knew what all his assets were. I think you have to look at it as a unique situation. Every person is different; they handle their business dealings differently.

I have some shares in Faraday mining or something that I came across the other day, which were split back in the 1950s. They were penny stocks, etc. I had forgotten all about the fact that I had them; they are worthless. But I still have them.

Mr. Sterling: I appreciate that, and I appreciate where the conflict may arise in doing business with the government. But I disagree with you on the public disclosure as not being important; it is important.

Mr. Wright: I am not saying it is not important, but you have to separate the question--failure to disclose all assets does not mean that there is a conflict of interest.

Mr. Sterling: No.

Mr. Wright: Simply because he has one share or whatever it is of Nordex--okay, he has not disclosed that. Now I want an answer to the next question: By reason of not disclosing that share, has Mr. Fontaine been involved in a conflict of interest?

Mr. Sterling: I agree there is a difference between the two.

Mr. Wright: Disclosure is clearly important.

Mr. Sterling: Very important. The reason you have disclosure is so the public can view his record and the records of each minister and determine where they stand on a particular issue.

Mr. Wright: That is correct. And if it was done on purpose rather than inadvertently, then you would have a totally different situation.

Mr. Sterling: I agree the intention of the particular minister is important as well. There also is a requirement on the minister to be prudent about his business affairs when he becomes a member of the cabinet.

We cannot for ever forgive Mr. Fontaine, because he always claims his accountant, his lawyer or whoever has the records--members of the Legislature who are on this committee and other members of the Legislature are quite willing to be reasonable, but I do not know how long that can go on as well.

Mr. Callahan: Did your clients not forgive you when you blew it?

Mr. Sterling: I did not blow it. I was fairly careful.

Interjection.

Mr. Sterling: At any rate, I guess the other choice the Premier has in dealing with a breach of the conflict-of-interest guidelines is to change them. He can unilaterally change them if a minister or a number of ministers are breaking his guidelines. He can do that unilaterally tomorrow.

Mr. Wright: Yes.

Mr. O'Connor: May I ask one question? Has Mr. Fontaine made any further filings, and have you tabled whatever he has produced to you since January 1986?

Mr. Wright: As a result of this whole inquiry, the firm Blake Cassels, through Don Brown, acted for Mr. Fontaine and provided me with certain changes. By that time, Mr. Fontaine had resigned as a cabinet minister; so I simply put a note on the letter, "Since Mr. Fontaine resigned, there is not much sense in changing his statement of disclosures."

11:30 a.m.

Mr. O'Connor: That was the one occasion, and it was after his resignation. There were no subsequent filings between January and when he resigned. Is that correct?



Mr. Wright: That is correct.

Mr. O'Connor: Thank you.

Mr. Chairman: Mr. Callahan?

Mr. Callahan: I know this will shock you, Mr. Chairman, but I pass.

Mr. Treleaven: Just a clarification on one thing, Mr. Wright: You said you were going to some ends to make a differentiation between conflict of interest and forgetfulness, and you were saying one is not necessarily owning shares and forgetting to disclose shares is not necessarily a conflict of interest. That is correct. Is it not also correct, though, that in certain circumstances, the forgetting of a certain kind of shares by a minister with certain responsibilities would be automatically a conflict of interest?

Mr. Wright: I do not agree that it would be automatically a conflict of interest.

Mr. Treleaven: If a minister of mines owns shares in a bakery, there is no direct connection, and it does not follow that there is a conflict of interest; but if he owns shares in a mine and is setting mining policy for that area, is there not at least the assumption of a conflict of interest?

Mr. Wright: There may be an appearance of a conflict of interest. In Mr. Fontaine's situation, he owned Golden Tiger shares, which I understand were getting some grants from his ministry. Did he know they were getting grants at that time, did he know he still owned those shares and was the decision to make those grants part of the minister's function?

He may not have known who was dealing with that; so he could then comply with the guidelines and say: "Hey, look, I own these shares. Grants are coming from this ministry. The guidelines say I have a beneficial interest here; so I am informing the Premier that some other minister should deal with this issue."

Mr. Mancini: On a point of order, Mr. Chairman: For clarification, it was not Mr. Fontaine's ministry that was giving out the grants; it was the Ministry of Natural Resources under the Ontario mineral exploration program, as far as I can decipher.

Mr. Wright: Mr. Mancini, it would not have mattered in my example--

Mr. Mancini: But you have brought in the point of the other minister, and in fact the other minister was involved.

Mr. Wright: Even if it had been his ministry, my example is--

Mr. Chairman: To correct the record, I will intervene to point out that it is the Ministry of Northern Development and Mines which administers the Ontario mineral exploration program.

Mr. Sterling: I believe the responsibility was transferred when that ministry was set up just when the Peterson government came in.

Mr. Chairman: Yes.

Mr. Treleaven: Mr. Wright, you are using the example of a public corporation and saying it depends on whether it is a private corporation, a

public corporation, the ministry, the types of shares, etc. You are saying each situation is totally different; it depends on what the ministry is and what shares he had. In other words, every situation depends on its own facts, and there are no overall rules as to shareholdings and the duties of a minister or a member.

Mr. Wright: There are the guidelines, but they have to be applied to a particular factual situation.

Mr. Treleaven: And the Premier is the one who decides on the propriety or impropriety of any situation.

Mr. Wright: That has been my understanding, yes.

Mr. Treleaven: Thank you.

Mr. Villeneuve: Mr. Wright, the original guideline specified a disclosure within three months, did it not?

Mr. Wright: I believe so, yes.

Mr. Villeneuve: The cabinet was sworn in the end of June; so that would have given him more or less to the end of October for declaration of possible conflicts of interest.

Mr. Wright: That is probably technically correct, but the guidelines were amended and became--if you want to call them that--Premier Peterson's guidelines as of September; therefore, from September to December he had 90 days, the same as under the previous government, to comply with the amended guidelines.

Mr. Villeneuve: That was part of the softening or the changes brought in by the Peterson government in that period of time.

Mr. Wright: The amended guidelines did not come into force until September. They were given until the end of December to comply with those guidelines, which was approximately the same time frame as that for compliance under the Davis guidelines.

Mr. O'Connor: By way of supplementary: I think you indicated to me that prior to the new guidelines coming into effect the ministers were to be guided by the old guidelines but provided for 90 days.

Mr. Wright: Yes, but there was no administrative process in force at that time. You must understand there was a transition period. The question was, are the guidelines going to be amended? The Peterson guidelines were not really in effect until September. Therefore, they had until the end of the year to comply with those, which is basically the same time frame as under the former guidelines.

Mr. O'Connor: They were under the former guidelines for the first three or four months and should therefore have been complied with.

Mr. Wright: There was no administrative structure requiring them to comply with those.

Mr. O'Connor: Was Ms. Eberts not doing that?



Mr. Wright: You will have to get from her what she was doing. She was advising during that period. You have to realize that during the transition period changes were evident and the new guidelines therefore came into force in September.

Mr. Callahan: May I have a supplementary?

Mr. Chairman: The supplementaries are running up the track here. Mr. Treleven gets the first one.

Mr. Callahan: No, not a supplementary. I want to be put on the list, Mr. Chairman.

Ms. Eberts was retained as what one would call an independent outside source. Is that right?

Mr. Wright: You should probably get from Ms. Eberts under what condition she was--

Mr. Callahan: She was certainly not part of the government.

Mr. Wright: No; that is correct.

Mr. Callahan: You agree that would be the best way to do it, because there might be a situation where the Attorney General (Mr. Scott) was revealing his assets. If you were looking after the matter, as the situation was in the past, there would not be a conflict but there might be a perception of a conflict. In going outside for an independent position, I gather that is the first time it has ever been done.

Mr. Wright: We have never had any conflicts in the Attorney General's office.

Mr. Bossy: There has only been one change of government in 42 years, and that is a little hard to accept.

Mr. Chairman: You may have the floor back, Mr. Villeneuve, if you want it.

Mr. Villeneuve: Thank you, Mr. Chairman. Not having a legal mind, I would like to give an example and see who would or would not qualify as to breaking any guidelines. Let us assume the Solicitor General has a fleet of service stations. Could he sell gas or tires to the Ontario Provincial Police?

Mr. Wright: That presumably would be a contract or agreement with the government. Therefore, if he wanted to continue to do that he would place that company in a blind trust.

Mr. Villeneuve: Then he would be legally selling whatever the OPP required?

Mr. Wright: That is right.

Mr. Villeneuve: If this were not a public company, if he owned--

Mr. Wright: You mean a private company.

Mr. Villeneuve: --a private company. If he owned a service station personally--he may not be pumping gas or whatever, but if he owned it personally without being a corporation, I presume he would be in conflict.

Mr. Wright: He would still have to place it in a blind trust.

Mr. Villeneuve: He would have to place his privately owned business in a blind trust.

Mr. Wright: Whether it is a sole proprietorship or a corporation, he would still have to place it in a blind trust.

Mr. Villeneuve: Okay. I want to go back to forest management agreements and the Ministry of Northern Development and Mines. Mr. Fontaine has stated to some newspapers that unless he or a company called Hearst Forest Management were to obtain a forest management agreement he would consider resigning his seat. In those particular circumstances, if it is your responsibility to interpret whether or not he is in breach or what is happening, how does this affect the possible future FMA to Hearst Forest Management if this man is elected as of today and winds up back in cabinet?

Mr. Wright: I would rather not comment on any statements Mr. Fontaine has made.

Mr. Villeneuve: Under the former situation of the Davis guidelines, this would have come to you for a ruling, an interpretation or whatever, would it not?

Mr. Wright: Yes, it may have.

11:40 a.m.

Mr. Villeneuve: Under the Peterson guidelines, who would decide?

Mr. Wright: I would probably be asked for some advice. I am hesitant because I do not know the context and when he made the statement, etc. Because there is an election going on and there is a great deal of paranoia about the whole issue of conflict of interest, I would rather not make a comment on personal statements Mr. Fontaine has made. He is no longer a member of the cabinet at the moment, and therefore I do not feel I should be pressed to comment or give an opinion on statements he has made in the past few weeks.

Mr. Villeneuve: It may wind up on your desk some time in the future.

Mr. Wright: If it does, then I will try to do my best to provide an opinion.

Mr. Treleaven: Could you clarify one thing for me? Under the Legislative Assembly Act--correct me if I am wrong--you said that once a contract is signed with the government, that MPP then becomes ineligible to continue in his seat as a member. Up to that point, no matter what negotiations take place, that would be quite in order. It is the execution of the contract that makes the ineligibility. Is that correct?

Mr. Wright: You could have a contract that did not involve any document at all; it could be an oral contract, and it would fall within section 10.

Mr. Treleaven: Let us assume we are talking about a written contract. Negotiations up to draft contracts, draft agreements, etc., are fine, and negotiations are fine. That is quite appropriate under the Legislative Assembly Act. It is the moment when the execution of the agreement takes place that the ineligibility occurs. Is that what you are saying?



Mr. Wright: I would have to read the section again. I would query why an MPP would do that in face of section 10.

Mr. Treleaven: I do not know why he would either.

Mr. Wright: Unless you are giving a scenario where he is trying to enter into a very lucrative contract and then he is simply going to resign when he gets it executed. I suspect that is seemingly a very remote possibility, at least to me.

Mr. Treleaven: Thank you. Mr. Chairman, that is my question of the witness. I have a little item to bring up before we break, not involving--

Mr. O'Connor: I have a brief question, if I may. Mr. Wright, I asked you whether Mr. Fontaine had made further disclosures to those in January to you. Can I ask whether there have been disclosures from other ministries since that--

Mr. Wright: Changes?

Mr. O'Connor: Yes; changes made.

Mr. Wright: Yes.

Mr. O'Connor: There have. I presume they have been passed on to Blake Cassels. Is that correct?

Mr. Wright: No. I simply make the changes on the disclosure form and file them with the cabinet office, and the book is amended in the office of the Clerk.

Mr. O'Connor: So any changes you have received are now public.

Mr. Wright: Yes.

Mr. O'Connor: Have you had any communication with Blake Cassels with regard to the preparation of its report? Have you been involved in that process at all?

Mr. Wright: No, I have not.

Mr. O'Connor: You would not have seen the report--

Mr. Wright: In other words, I do not have a copy of the report. I would like to see a copy of the report, but I have not seen one.

Mr. O'Connor: So would we. Thank you. Those are my questions.

Mr. Laughren: I am confused about the exchange between Mr. Sterling and Mr. Wright about the right of Mr. Fontaine, in this case, even to hold a seat with the signing of the forest management agreement. Did you say that was in question or in jeopardy?

Mr. Wright: I think you have to look at the Legislative Assembly Act to determine whether it comes within section 10. Section 10 talks about no contracts or agreements indirect or by third parties, etc. There are certain exemptions, etc. Section 11 has a whole list of exemptions, and one of those exemptions is that you are not disqualified by reason of being a shareholder

in a corporation. What does that mean? Can you have 51 per cent of the shares? Can you have 100 per cent of the shares and still be exempt?

Mr. Treleaven: What kind of shares?

Mr. Wright: What kind of shares, etc.?

Mr. Chairman: We should try to clarify this. The process would be that someone would put a motion before the House, which says, "There is a substantial conflict here and we believe the member is not qualified to hold the seat." You do not get turfed automatically.

Mr. Wright: That is right.

Mr. Chairman: The process would be a motion put and adopted by the House saying there is a substantial conflict here and the House finds that--

Mr. Wright: There would be a debate on the whole interpretation of sections 10 and 11.

Mr. Laughren: What is bothering me is the process has failed us all. I suspect no one has made Mr. Fontaine aware--it is Mr. Fontaine in this case, but it could be anybody--of the jeopardy in which he holds his seat. It is a very fragile hold he or anybody else has. I am wondering why or how we have come to this. People like you and others-- I am not pointing specifically at you, but you are here. Over the years, this has not been rectified. What has changed? Why have we come to this now?

Mr. Wright: Why have we come to this particular inquiry?

Mr. Laughren: No, not this particular inquiry. I find it hard to believe we are going through this process only because René Fontaine exists and has behaved the way he has. Rather, the potential for this has been there all along. I am wondering why there have not been more safeguards built into the system to protect all of us, even as members, as you point out, not just cabinet ministers. Is that an imponderable question?

Mr. Wright: The Legislative Assembly Act is always there. Presumably, every MPP reads it, particularly sections 10 and 11. These are unique situations. You have had a change in government. You have cabinet ministers with fairly substantial private assets. We are in a new era with the conflict-of-interest situation and the evolution of it. You gain a lot from certain experiences. Every individual situation is different when applied to a particular legislative act or a section such as sections 10 and 11 or a particular guideline.

Mr. Chairman: Our crack legal minds at the front here have gone through section 12. It appears there are potentially two ways in which that would occur. One is that someone would go before a court contending that this person was not qualified to be a candidate or a member. The other is the right of the assembly to expel a member. One of those two routes would be used.

Mr. Treleaven: Following up on Floyd's question as to how this has come about, is it not correct that for years, upon being elected, lawyers, and all members of their firms, have stopped acting for the government on various Farm Credit Corp. loans, junior farmer prosecutions, etc.? They have ceased and all members of their firms have ceased acting for that government upon election. Is that not something that has been taking place for years?



Mr. Wright: Basically, yes.

Mr. Treleven: They have been aware that you simply cannot act for that government nor can anybody in your firm. Therefore, you forgo the legal fees and the legal volume of business you would have had.

Mr. Wright: Right.

Mr. Villeneuve: In your opinion--and there has been a great deal of discussion about this--is a forest management agreement an entity with value?

11:50 a.m.

Mr. Wright: With value? I presume it must have some kind of value.

Mr. Sterling: Mr. Fontaine owns a third or a half of United Sawmill, and about a quarter of Hearst Forest Management Inc. He is therefore a substantial shareholder if he has that number of shares.

As I read the act, and with the discussion that has taken place, it seems to me that any citizen of the province could go before a court and say that Mr. Fontaine has a substantial interest if the forest management agreement is signed. There is no contract at this point, because no agreement has been signed.

Notwithstanding the blind trust that has been set up, I believe you indicated to us before that there was a significant question in your mind as to whether he could stand as a member under those circumstances.

Mr. Wright: It would depend, first of all, on whether that particular contract or agreement comes within section 10 of the Legislative Assembly Act and how you then interpret the exemption sections with respect to shareholders of corporations. That is the real issue.

Mr. Callahan: I have a supplementary to Mr. Treleven's question, because I am not sure I grasped the entire content of it.

Were you saying, Mr. Wright, that under the previous government, a lawyer connected with a firm either as counsel or as a member was required to cease having his name on the letterhead, or having any involvement with that firm? Or was it simply that his firm had to make certain it did not deal with or represent the government in any way, shape or form?

I can think of at least two instances out in my riding. My predecessor appeared on the letterhead of his firm for years, and I believe a former Attorney General did as well. I am sure there are untold numbers of incidents such as that. I would like clarification on that, because I got the feeling Mr. Treleven was saying that the person just disappeared.

Mr. Wright: No.

Mr. Treleven: Mr. Chairman, he is fishing.

Mr. Callahan: Well, what the heck! I have worms too, you know. I have worms--not personally, but I have worms to do some fishing too.

Mr. Wright: I believe Mr. Treleven was referring to section 10, which says you cannot have a contract or agreement with the government.

Therefore, if you still have a beneficial interest in the law firm with which you practise, and it is retained by the government, it seems to me that section 10 comes into effect.

There is no problem. Some people leave their names on the letterheads, but they sever all connections with their firms. In other words, from the time they become MPPs, they are no longer receiving any beneficial interest from the firms on whose letterheads their names appear.

Mr. Callahan: Not even by way of a contribution for leaving their names on the letterheads?

Mr. Wright: I cannot deal with every possible kind of situation. I am just dealing with the specifics Mr. Treleaven was referring to.

Mr. Callahan: I gather that under the past government there were never any applications made by anyone to a committee of this type or any kerfuffles about that taking place.

Mr. Wright: Not to my knowledge, no.

Mr. Mancini: I share the concern that was brought up earlier by my friend Floyd. I am somewhat unclear as to what Mr. Sterling is getting at and unclear as to the answer given by Mr. Wright in regard to section 10 of the Legislative Assembly Act.

I had the opportunity to go over some old Hansards. I want to bring this into the context of what happens after the election tonight with the forest management agreement, when it is given out, and what it means to Mr. Fontaine. That is the context of the question.

My understanding is that some years ago the member for Lanark (Mr. Wiseman) served as the parliamentary assistant to the Minister of Health. At that time, there were some hospital closings and closings of chronic care beds in certain institutions across the province. It was noted that Mr. Wiseman had a family interest in a private hospital, chronic care institution, and that the ministry had allocated beds to that institution.

That being the case then--and I certainly do not agree with the interpretation given to section 10, but if we accept the interpretation that has been given out today--under section 10 the Legislative Assembly Act, Mr. Wiseman would have had to resign.

Mr. Wright: It depends on--

Mr. Mancini: We are talking about a member now. We are talking about the Legislative Assembly Act, as a member. The question was brought up by your colleague. He did not say cabinet minister; he said member.

Mr. Wright: It depends on whether that particular contract or agreement falls within the meaning of section 10. There are certain exemptions there. For example, if it is for a public building and the offer has not gone out--what is the wording?--to the highest bidder or has not been tendered--

Mr. Mancini: I do not think chronic care beds are tendered.

Mr. Wright: No. Then there can also be a resolution. For example, in the past, members of the Legislature have either sold property to the



government or purchased property from the government. Clearly, that is a contract or an agreement, but there is a provision there which says "except by resolution of the House."

Certain members have brought situations before the House and have said, "Look, I am selling this property to the government" or "I am buying this property from the government." Then there is a resolution saying: "That is quite all right. Go ahead and do it."

Mr. Mancini: I do not differentiate in any way whatsoever between the situation facing Mr. Fontaine and the forest management agreement and the situation that faced Mr. Wiseman at that time.

When one is allocated chronic care beds from the government and he and his family wholly own or have a majority share in that particular institution, I certainly would not expect the member to resign. In the same way, I would not expect Mr. Fontaine to resign if the government process was adequately used and the Hearst situation took shape as a forest management agreement.

I think that is an unfair interpretation of section 10 and it would cause tremendous problems for many members, Mr. Wiseman included. I just thought I would put that before the committee.

Mr. Wright: Mr. Mancini, it is a question of dealing with a particular contract or agreement and interpreting that contract or agreement in the light of the wording of section 10.

In those situations, it may be wise to bring a resolution before the House so there is no question, it is open that this is happening and the Legislature, by resolution, approves that kind of contract or agreement between an MPP and any corporation in which he has an interest.

Mr. Chairman: Any further questions? Mr. Wright, we thank you for appearing this morning. We appreciate your co-operation.

For the interest of the members of the committee, there are a couple of items. I would remind you once again that I have asked for a brief steering committee meeting in my office at 1:30 p.m. to help us order our business for next week.

You have before you a list of the applications and licences for cutting agreements. The actual documents are available for your perusal in the clerk's office, if you want them.

We have found that the records for Polar Lumber that we were searching for are in our hands; we have those now. Regarding the question raised by Mr. Sterling, the letter from the Ministry of Northern Development and Mines informing us about the cessation of the grant to Golden Tiger was signed by Gary Weatherson, the director of that program.

Mr. O'Connor: On that point, that letter deals only with the \$23,000-grant. I understood we were also to get information with regard to the second one. Is that coming? The \$186,000-grant.

Mr. Chairman: We will check on that for you.

Mr. Sterling: On that same matter, my concern is as to on whose initiative this move was taken. I want to know who is blackmailing Mr. Martin.

Mr. Chairman: I assume it is the director of the Ontario mineral exploration program. Thank you for your help.

One final point before we adjourn this morning. I have begun to receive the applications for the position of Clerk of the Legislative Assembly. As agreed, I provided these to Mr. Warner, who has agreed to sit on this for the New Democrats. Mr. Mancini has agreed to sit on it for the Liberals and Mr. Treleaven, I believe, for the Conservatives. They will act as the steering committee which will make the recommendation on who is brought before the committee for interviews for that position.

Is there any further business?

Mr. Treleaven: I would like clarification, Mr. Chairman. When we started out, it was well understood and agreed by all members of the committee that once we started into this committee process, in essence, all members were locked in.

Mr. Chairman: Yes.

Mr. Treleaven: There would be no substitutions or changes. When we got around to writing the report, everybody had been here all the time and so on. While I really enjoyed having Mr. Callahan here, as he certainly enlivened any proceeding and I welcome him on board, it is a little different to our original understanding. We have had a number of substitutions and so on. Where are we going on this as a committee?

At the same time, I would like to let you know that the Progressive Conservatives are having a caucus in September, on one of those weeks we have tentatively scheduled this committee. I want to bring all that up together.

Mr. Chairman: I do appreciate it. At the time we started the hearings, I told you I was anxious that we not have a lot of substitution and that I would very much like members to stay throughout the entire course of these hearings. It has not been possible to do that. Each of the parties has substituted at some time or other. There is not much I can do about it.

Mr. Treleaven: Ours was not really free--

Mr. Chairman: You can be more pure than anybody else if you want, but I am just stating the facts as I see them. I would continue with that admonition. I am anxious that there not be a lot of substitution. I am aware that we are in the middle of the vacation period and other business draws members to other places, but I am reasonably happy with that.

About the fact that the Conservatives are having a caucus meeting in September, you have my condolences. If you tell me when, we will try to avoid a conflict with that, as we would with all other caucuses.

Mr. Laughren: The Liberals have one then too.

Mr. Chairman: Is there any further business? The steering committee will meet at 1:30 p.m. and the committee will resume again at 2 p.m. It may be a brief hearing this afternoon. We need to deal with the Speaker's warrant stuff. We are in trouble with that.

The committee recessed at 12:03 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

THURSDAY, AUGUST 14, 1986

Afternoon Sitting





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Morin

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Martel

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, August 14, 1986

The committee resumed at 2:09 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: I think we are ready for the afternoon session. We had a brief steering committee meeting at 1:30 p.m. Out of that come some deliberations. We will be doing some organizational work this afternoon. I do not think it will be that exciting.

The first thing we want to report is that we have gone through the hoops on the issuance of the Speaker's warrant. We can find no easy way of serving a Speaker's warrant issued by the Speaker of the Ontario Legislative Assembly. We have investigated legal alternatives to it. If we were prepared to hire some crack legal minds outside of this committee--

Mr. O'Connor: There are not any.

Mr. Chairman: Because that would be a conflict of interest--and go to court for several years, we might be able to determine the jurisdiction. Knowing that it cannot be served, the Speaker has indicated some reluctance to sign the warrant. The recommendation, if you can call it that, from the steering committee is simply that we ask the Speaker to sign the warrant anyway. Though it may not be possible to serve this warrant, it will stand as an outstanding warrant. It will make a statement from the committee about whether this is an acceptable way for Mr. Martin to proceed.

We have uncovered some unusual things, such as the fact that a company can operate in Ontario, receive grants from Ontario and not have even a mailing address in the province. We were unable to find an officer of the company who resides in Ontario, a mailing address or any reasonable place where a warrant might be served.

This is what we have to report to you. If you want us to pursue it further, it means that a long, difficult, awkward and perhaps expensive process will ensue. It also begs the question of whether on another day we might well look into this quandary. It seems rather odd, for example, that several other subpoenas of a similar nature can be served in another jurisdiction by means of reciprocal agreement. If it were a document issued by a court, for example, there is a reciprocal agreement across Canada that allows certain types of court documents, but not a Speaker's warrant, to be served.

I am recommending to you that I contact the Speaker and ask him whether he will consider signing the warrant and issuing it at any rate, even though we are operating in the full knowledge that this warrant cannot be served unless Mr. Martin of his free will entered into the province and made himself known.

Mr. O'Connor: I have a couple of points. With regard to the service, I suggest that the situation is this and that we follow this procedure: that



we ask the Speaker to issue the warrant. It can then be served. You have made reference to the fact that it cannot be served. It certainly can be served, simply by giving it to a person to deliver to Mr. Martin in Quebec. That, I presume, is not the difficulty.

The difficulty is whether he need pay any attention to it. If we do not even serve it, he will not have official notice of it and can with complete impunity ignore it. I suggest that we at least serve it. Then the question becomes whether it has effect outside the province, but at least he will know officially that we want to see him and the warrant will be in his hand. That step is an easy thing to do. I suggest we do that.

With regard to the second matter you raised, about whether a company need have anybody physically in Ontario, as I understand corporate law, which is not my field, every company doing business here in Ontario has to have an agent. Usually that agent is a lawyer who files documents on its behalf and agrees to allow his name to stand. Am I correct on that, Mr. Callahan? We can serve the agent of Golden Tiger.

Mr. Chairman: I made that logical assumption as well.

Mr. O'Connor: That is not correct?

Mr. Chairman: That is not correct. By law, they may have to have one. What I am telling you is they do not, at least not one whom we can find.

Mr. O'Connor: Can we agree that once the warrant is issued, we attend to service of it by asking the bailiff down there to serve him?

Mr. Chairman: Yes. I have no real problem with that, except that in our research we came across that we may find some reluctance on the part of a bailiff in a Quebec court to serve a document that has no jurisdiction there. It is true that we can mail it or that we can send somebody with it. We can send it by pony express. We can do all kinds of things. Whether we can get an agent of a court to serve a document that has no jurisdiction--

Mr. O'Connor: The agent is private. He is not a member of the court system. He is our agent. The bailiff is a private person. We would simply hire him and pay him a fee to deliver it. He would swear an affidavit that he delivered it on a certain day.

Mr. Callahan: Send Tim Jones.

Mr. O'Connor: All right, send Jones. There we are.

Mr. Chairman: Just hold on for a second. According to the clerk, the warrant can be served by only the Sergeant at Arms or an Ontario Provincial Police officer. Perhaps Tom wants to go to Montreal for a weekend. We will look after that. I understand what you are saying, and we will do that.

Mr. Mancini: We cannot send it by registered mail or anything?

Mr. Warner: I agree. First, it should be served. It has to be issued, and an attempt should be made to have it served.

Second, I would like us to put on the agenda for some later date a look at the practicality of these Speaker's warrants outside of Ontario and whether

or not it is possible to get some kind of reciprocal agreement with the assemblies of other provinces. Obviously, we have stumbled on this difficulty and our committee can take a look at that later.

Mr. Callahan: I notice that the legislation is permissive, that "the Speaker may issue his warrant." I have to reflect on what would happen if Quebec had similar legislation and decided to serve a citizen of Ontario with what was acknowledged to be, with all due respect to the Speaker's warrant, a worthless piece of paper. What, other than a political purpose, is the purpose behind it?

If the guy has already told you he is not coming, I do not think that a Speaker's warrant is going to make him any more subservient to coming. I think we are looked at as people running around the province issuing papers that have no meaning. What happens if the man does not take legal advice or whatever and decides to come to Ontario because he thought he was under the pressure of a Speaker's warrant? Are we not falling into a trap of committing fraud, in a way, on a citizen of Quebec? If the inadequacy is there, the inadequacy should be corrected. There is no question about that.

Mr. Chairman: The problem pointed out by several members is simply that if we do not proceed with trying to get the warrant issued and put into his hands, we will not have done very much. Whether or not he takes legal advice, goes to court to challenge the jurisdiction, which seems rather likely, if we have never even put the document in his hands, we will not have pursued it very much at all.

I think we are caught in a quandary here. This is a very old and rarely used tradition. Not much time has been spent in thinking about how you do that in a modern world. I am sure that at the time when the Speaker's warrants were first considered in this province, it would take you a couple of days to get out of the province, so it was not a bad move. The Sergeant at Arms could get on a horse and find this guy and serve the parchment paper.

Mr. Callahan: Is that how Tom is going?

Mr. Chairman: I do not know whether he has a horse. He may be walking. It is probably time that we take a look at this. I concur. The committee has said it wants the warrant issued. We will attempt to get the Speaker to sign the warrant and we will serve it as best we can, by whatever means we can.

If it is held, and it probably will be, that we are legally not entitled to serve this kind of a warrant elsewhere in Canada, so be it, but we should establish that for starters.

Mr. Callahan: Can I ask one further question on this? Normally, a person served with a subpoena is provided with some expenses to come here. I presume that if we are going to serve a Speaker's warrant and this person is going to have to come from Montreal, then this would be an appropriate step to take.

Mr. Villeneuve: How about \$187,000?

Mr. Callahan: Yes. We have done that with other witnesses who have appeared before the committee.



Mr. Treleaven: Can I underline a couple of things? First, unless the person officially is handed a piece of paper, he will not be in any way officially asked or requested.

Mr. Chairman: He might have read the 'Toronto Star, and it could be right.

Mr. Treleaven: Yes. Second, we and anyone else have the right to have a private bailiff serve anything we want.

Mr. Chairman: I think so.

Mr. Treleaven: Whether he must respond to it legally is the question, but we can serve anything we want.

Mr. Chairman: If we have an agreement and it is the consensus of the committee, that is the way we will proceed. I will keep you posted.

2:20 p.m.

We addressed ourselves to the schedule over the next week or so. If we want to continue the practice of essentially inviting people to appear and meeting at their convenience, there is very little we can do. We will have some occasions in the next week when, if there are others you want to call, we could slot them in. For example, Mary Eberts is available on Monday afternoon. Although it is awkward to bring the committee in for an afternoon session, if we want to hear this witness in the foreseeable future--she oddly enough seems to think she has the right to a summer vacation--she is leaving after that date, and so Monday is the last convenient date we could do that. It seems to me not that untoward that we would do that.

If you want to hear the Premier (Mr. Peterson), the first occasion that can happen is the evening of Tuesday, August 26. This creates all kinds of problems for me and for everybody else. If it is your feeling that we should hear the Premier, who has been invited and who has indicated a willingness--in fact, a desire to attend--the first occasion we could schedule that would be the evening of Tuesday, August 26. Is that agreeable? Are there any objections? We will proceed on that basis.

Mr. Treleaven: Tuesday evening, August 26?

Mr. Chairman: Yes.

Mr. Treleaven: I guess it is a choice between the founding meeting of the Oxford Progressive Conservative Association and the Premier. I do not know who is going to win that one.

Mr. Chairman: You pays your money and you takes your chances. We will attempt to schedule that.

We considered one other matter briefly. We cannot be definitive on this, but we can say this about the writing of the report. It would be the recommendation of the steering committee that the report be solely on the Fontaine matter. For the broader conflict-of-interest guidelines and all that, we recommend awaiting the Aird report, when we will go through all the conflict process thoroughly--whether guidelines should become law and all that. This report will not be a brief report, but it will not be an eight-volume study of conflict-of-interest legislation around the world. It will deal with the Fontaine matter per se.

Although I cannot say this with any real definition, at this pace we will go through the witnesses that I am aware of next week. We will finalize the hearings with the appearance of the Premier. It is conceivable the process will terminate at that time. It is also conceivable we will uncover new evidence that would take us on into more hearings at a later date. I am not scheduling the end of the hearings by a long shot, but I am trying to give you advance warning that at the end of that session on Tuesday, August 26, a motion would be in order from anybody on findings on the matter. You should be prepared to deal with that, so there will be no surprises here.

Are there any problems with that? Is there any further business anybody wants to raise?

Mr. Treleaven: About August 26, when are we contemplating sitting, early evening or late evening?

Mr. Chairman: You are doing the early fall, late fall routine on me.

I suggest you may want a little extra time. If there is a motion put that you would want to debate, it might be preferable to start about seven o'clock or so, so that you have reasonable hours to do your business. That depends more on the Premier's schedule than on any of ours. I would say that if we are doing this by means of invitation and at his convenience, then if he is available at seven o'clock, we will sit at seven. If he is available at eight, that is when we will start.

Mr. Warner: Is it an annual meeting--

Mr. Chairman: He is probably going to the Oxford Progressive Conservative meeting.

I had attempted to get a little sense during the steering committee of exactly how the report will be put together. The best I can give you now is that it would be in order at the end of that session or any time between now and then to put a motion.

What I would like to caution you on a bit today is that if you are of a mind to be the person who moves the motion, it should be thoughtful and well drafted. I do not want to see one coming in on the back of yesterday's Star. If you would like some assistance in drafting that, I think we could assist you at the table in putting together what the motion might look like and what it might say. You, of course, would dictate to us exactly what the contents would be.

You will have some occasion next week to do it. Is it your pleasure that in preparing the report a chronology of events be put together, something like the one John Eichmanis prepared for your initial kit? John could begin drafting that part of it, and the only thing remaining would be the decision of the committee. Thus, a background would be prepared and page 93 would say what the committee thinks. That is the usual process.

The agenda next week is as follows: Monday afternoon at 2, Mary Eberts; Tuesday at 10 a.m., Mr. Markus and Mr. Tworzyanski; Wednesday at 10 a.m., Mr. Tieman; Thursday at 10 a.m., Mr. Bourgeault; and Tuesday, August 26, in the evening, the Premier.

The committee adjourned at 2:26 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
ALLEGED CONFLICT OF INTEREST  
MONDAY, AUGUST 18, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Bossy

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Martel

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witness:

From Tory, Tory, Deslauriers and Binnington:

Eberts, M., Barrister

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Monday, August 18, 1986

The committee met at 2:09 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: I think we are ready to proceed. Before we get under way, there are two matters I want to draw to your attention. The first is that you now have a memo from Lynn Mellor confirming that the Premier (Mr. Peterson) will be before the committee at 7 p.m. on Tuesday, August 26. That is a simple confirmation of what we knew previously.

Mr. Sterling: Is that a dinner meeting?

Mr. Chairman: No, it is not a dinner meeting.

I believe you also have a copy of a letter from the Speaker outlining his reluctance to issue the Speaker's warrant for Mr. Martin. There does not appear to be much more we can do. We checked the precedents on the matter. The Speaker has some precedents on his side about refusing to sign the warrant and, to me, there seems very little we can do to pursue the matter further.

Mr. O'Connor: May I comment on that? I read the Speaker's letter, which indicates that he is not prepared to sign the warrant for Mr. Martin's attendance here. He comments--and this is the sentence with which I take some issue--"Neither the assembly nor I have jurisdiction outside the province, nor is there any way in which I could have such a warrant served outside of Ontario."

With respect, that is just not the case. Service is the easy part. Service merely means delivery to Mr. Martin, and that could be effected through the retaining of a bailiff in Quebec to deliver the document to him. There may be difficulty in enforcing Mr. Martin's attendance, should he choose to ignore the document that has been served on him. As I suggested previously, perhaps the answer therefore is to issue the warrant, have it existing here in Ontario, keep it alive. If there is a term to it, then keep issuing it so that when, as and if Mr. Martin does attend in Ontario, he would become subject to its terms. He could then be served and required to come before us to explain what we have asked him to explain. I simply cannot agree with the Speaker in his conclusion that he cannot serve the warrant.

Mr. Chairman: I remind you that we have also put that matter on the committee's agenda and I anticipate that, at a future date, we will delve into some of these vexing problems at some depth. I sense the committee's unhappiness at not being able to serve this Speaker's warrant or to get the warrant served. The difficulty I have is that I know of nothing that we can do about it at this moment. That is my quandary.

Mr. Sterling: First, it is important to note that was a request that was approved unanimously by the committee. I do not believe there were any dissenting votes. All three political parties asked for the warrant.



I view the Speaker's role in issuing the warrant as an administrative one on his part. If I asked for a warrant for someone from a court, it would automatically issue that particular warrant. They would not take the position as to the validity of the warrant, as Mr. O'Connor has put forward. If you want to equate the two, then I believe the Speaker should comply with that matter.

It is important for us, if we are going to look into this at a later date, at least to ask the Speaker for an expansion of his reasons for not issuing the warrant. I would like to know what the precedents are in relation to this matter from his point of view and what legal advice he might have received. This would be good for us not only in dealing with Mr. Martin, but to deal with that at a later date. I would like to know his argument in a fuller context than has been explained in two very short paragraphs and I ask you to make that request to him, Mr. Chairman.

Mr. Callahan: It is clear from the Speaker's statement that he does not have any jurisdiction outside the province. Then he goes on to say, "nor could I have such a warrant served outside of Ontario." What I think he is saying is that because of the lack of jurisdiction, any service would really be of no value.

Addressing the second issue that Mr. Sterling raised, I suggest that the legislation is quite clear. It says "may issue." Clearly, it is permissive; it gives to the Speaker a judgement he has to make, and he has made it. Let us get on with the balance of the proceedings.

Mr. Chairman: Are there any further comments?

Mr. Sterling: I do not think we should let the matter drop now. I believe I have expressed my anger with Mr. Martin at not appearing before this committee and, as you said, Mr. Chairman, while he takes this on the one hand, on the other, he snubs us. I do not think we should let the matter drop this simply.

I would like you also to pursue the other motion of the committee in relation to the mining grants as well as the tax credits.

Mr. Chairman: Yes, we did do that.

Mr. Warner: I am very surprised and disappointed with the Speaker's decision. I realize that the Legislative Assembly Act allows the Speaker to make a judgement. However, the Speaker is also supposed to take into account the will of the House, and this was not a divisive matter in the committee. The committee agreed unanimously that it wanted to issue a Speaker's warrant, and the committee is a creature of the House. Presumably, the Speaker will then take into account that the will of the House in this particular matter is to have a warrant served.

There are two parts to this. To me, the first one, in essence, is more important, and that is the issuing of the warrant. The second aspect of it is the serving. The serving may prove to be impossible, but be that as it may, the first thing is to issue the warrant, which is an indication to Mr. Martin that we are serious about his appearing before this committee.

I would urge that we again--and perhaps it would be appropriate for the chairman to do this--meet with the Speaker to express to him our concern at

not having a warrant issued and that as a committee we fully appreciate it may be impossible to serve Mr. Martin with the warrant. None the less, as we still want it issued, would the Speaker consider the will of the House in deciding whether he will put his signature on the warrant? If it is agreeable to other members, perhaps we could ask our chairman to approach the Speaker on this matter and see whether we can get the warrant issued.

Mr. Chairman: I would be happy to do that. We have tried to communicate to the Speaker that this committee wants the warrant issued. The Speaker, of course, does have the precedent that other Speakers do not really have to refuse to sign it; they simply have to make the judgement call as to whether it is appropriate for them to do so. The precedents are clear and the act is clear.

I would be happy to talk to the Speaker about it. I just want to point out to you that I am not aware of anything that a committee of the Legislature could do at this time to get him to reconsider. It is, in essence, a ruling of the Speaker that is not debatable, and I do not anticipate that he is going to want to debate it. I would be happy to talk to him further; I just would not want to get your hopes up that a great deal is going to change.

We have a witness before the committee this afternoon, Mary Eberts. I am going to ask the clerk--

Mr. Sterling: Mr. Chairman, just before Ms. Eberts comes in front of the committee as a witness, I asked last week, regarding the timber licences and applications, for 10 years of those particular licences. I understand that three years were produced and, additionally, two particular licences that we were most concerned about. Was there a reason that the other seven years were not produced, or was that just a misunderstanding?

Mr. Chairman: I had a brief conversation about that. We will have to look at the motion. If it is a matter of getting a couple of documents, that is not a problem; if it is a matter of getting seven years of documents, that may turn out to be a little difficult. We will simply get the motion and see what carried in the committee, and that is what they will produce. As far as I know, the ministry has agreed to produce all the documents we asked for.

Mr. Sterling: I am pretty certain I asked for all of those that were on that list.

Mr. Eichmanis: Mr. Chairman, you may recall that Mr. Tworzyanski said he might have to get it from the archives, because some of it was in the archives.

Mr. Chairman: Yes. As far as I know, we will get whatever the committee asked for, and there is not a problem, except the practical problem of actually researching the documents and duplicating them for our purposes.

Mr. Sterling: To go back to the Martin affair, did you have further information about the motion I put forward? We received one letter from the Ministry of Northern Development and Mines on it.

Mr. Eichmanis: Yes. I talked to the staff members from the ministry, and they indicated that the previous letter, which made reference to the three files, had a section in there that dealt with the remaining sums of money and that if the committee went back to their letter, either it could look at that



and see whether it was satisfactory or the ministry would then write another letter, if the committee wanted.

2:20 p.m.

Mr. Sterling: The question Mr. O'Connor had was that this was a grant of \$23,000 that they were withholding.

Mr. Eichmanis: Right.

Mr. Sterling: Mr. O'Connor asked about a tax credit of--I will approximate it--something like \$170,000 or \$180,000. Is that being withheld?

Mr. Eichmanis: Yes.

Mr. Sterling: It just was not included in the letter.

Mr. Chairman: It is my understanding that two things are currently being withheld. One is the tax credit and the other is a grant. The grant is in the amount of \$23,913 and, I believe, the tax credit is in the area of the sum you mentioned.

Mr. Treleaven: I do not recall ever having received an acknowledgement that the \$186,000 was being held back.

Mr. Chairman: I believe we have that. We will try to find it for you.

Mr. Sterling: The other thing that I think is important for the committee to know is who made this decision. Was it that particular director, the deputy minister or the minister? I want that established.

Mr. Chairman: The correspondence is from the director. Whether or not it was actually made by the minister, the minister is obviously responsible for the decision.

Mr. Sterling: So the Premier is responsible.

Mr. Chairman: Whether or not the Premier actually said, "Do this," in a parliament, the Premier, now acting as the minister, would be responsible for that decision in any event.

Mr. Sterling: Is the Premier going to respond to our motion about whether he is planning to withhold this money until Mr. Martin appears?

Mr. Chairman: You will have the Premier as a witness on Tuesday night; you can probably ask him that question.

Mr. Sterling: You have not put the motion to him?

Mr. Chairman: No. We have communicated to the minister the motion that was carried in the committee, and we have this response from him. If you want to pursue it, you can do that when he is here.

Ms. Mary Eberts sworn.

Mr. Chairman: Do you have an opening statement of any kind that you want to read?



Ms. Eberts: No, I do not.

Mr. O'Connor: Thank you, Ms. Eberts, for agreeing to participate today and attending before us. Initially, I want to ask you some questions, if I may, going back to your first involvement with the transition team and just what that involvement was. Can you tell us when and by whom you were first approached to be a part of the transition team?

Ms. Eberts: I must confess to a bit of confusion about the question. I thought we were here to talk about Mr. Fontaine, not about my role in the transition team. I would appreciate some guidance on whether we are going to have a sort of free-ranging inquest into my career or whether we are actually here to deal with Mr. Fontaine.

Mr. Chairman: We are here to deal with Mr. Fontaine. We do not normally put a lot of limits on the members' questions. If you are reluctant to answer such things, you are quite free to say no. It seems to me it was not a totally unreasonable opening question, but if you would rather not answer--

Mr. O'Connor: I asked the question by way of some general background information to ascertain this witness's position, her mandate, who it was she reported to and that sort of thing. Obviously, it is background leading into specific questions on her dealings with Mr. Fontaine.

Mr. Chairman: I thought it was rather reasonable in the sense that I think it is within the purview of the committee to determine what your role was in advising Mr. Fontaine and other members of an incoming cabinet, and so I did not think it was an untoward question at all.

Mr. O'Connor: Before we go ahead, perhaps we forgot one thing--and I am sorry to interrupt--and that was the question of the requests made of this witness to obtain a waiver from Mr. Fontaine on the solicitor-client privilege that exists between them, whether she made that request and was able to obtain a waiver from him.

Ms. Eberts: I did make a request and was able to obtain it.

Mr. O'Connor: Do you wish me to restate the question?

Ms. Eberts: If what you want is the general background, I can give you that. I was approached by someone in David Peterson's office. I believe it was Vince Borg, but I cannot recall for sure--whoever was making arrangements for the transition team. I think it was Mr. Borg.

Mr. O'Connor: When was that?

Ms. Eberts: It was some time after the last election when it became clear that there was a real possibility of forming a government. I cannot give you an exact time.

Mr. O'Connor: Did you receive anything in writing that would assist your memory in ascertaining the date?

Ms. Eberts: No, I did not.

Mr. O'Connor: What was the mandate? What were you asked to do?

Ms. Eberts: Initially, I was asked to serve on the transition team. It was quite a general request. My understanding was, and it turned out to be the case, that several people with various kinds of backgrounds and talents were assembled and were asked to advise generally on matters arising during the transition.

Mr. O'Connor: I presume that subsequently it became more specific. After several meetings your role was better defined. Is that correct?

Ms. Eberts: To get right down to the subject matter of this inquiry, as the transition team work progressed, it became clear that there was a need for some attention in the conflict-of-interest area, and that devolved upon me primarily.

Mr. O'Connor: What was your mandate when it did devolve upon you?

Mr. Treleaven: Excuse me. I did not catch that last answer. Did you say, "That devolved upon me and the Premier"?

Ms. Eberts: No, I said, "That devolved upon me primarily."

Mr. O'Connor: What were your instructions then?

Ms. Eberts: I was carrying on two activities, one of which was specific to me, that is, to meet with people in the caucus who might have a concern about conflict of interest and to give them some help. That was an individual one-on-one activity.

The other activity was to look at the conflict-of-interest guidelines that had been in place during the Davis government and to look at federal guidelines or anything else that seemed interesting in the context of the transition team and to determine for the transition phase or the early part of the government's life whether there should be the same or different guidelines, a major overhaul or a minor overhaul, or whatever. That was done as part of the transition team exercise.

Mr. O'Connor: In regard to that duty, I take it you retained copies of the old guidelines?

Ms. Eberts: Yes.

Mr. O'Connor: And examined them?

Ms. Eberts: Yes.

Mr. O'Connor: Did you have any initial impressions on whether they were adequate or sufficient?

Ms. Eberts: No, I did not. I went to talk to Mr. Wright, who had been charged with administering the guidelines. I wanted to get his impressions on how they had worked in practice. I formed no view before I talked to him.

Mr. O'Connor: When did you meet with him?

Ms. Eberts: I cannot tell you when. It was part of the transition team activity. I was not keeping dockets, so I do not know.

Mr. O'Connor: I think you gave evidence in the other committee that you were retained in your legal capacity, but you were not being paid for this. Is that right?

Ms. Eberts: That is right.

Mr. O'Connor: At some point, a questionnaire was developed and subsequently given to all members of the Liberal caucus. Is that correct?

Ms. Eberts: Yes.

Mr. O'Connor: Are you the author of that?

Ms. Eberts: I am the main author, yes.

Mr. O'Connor: Do you recall when you developed that questionnaire?

Ms. Eberts: I am sorry, I do not.

Mr. O'Connor: I assume it was fully developed by June 9. Is that correct? I say that because we have heard evidence that you met with Mr. Fontaine and his accountant, Mr. Gagné, that day.

Ms. Eberts: I am sorry. The date has no real significance to me. I cannot say whether it was done by June 9.

Mr. O'Connor: I take it you do not dispute that June 9 is a logical day. Mr. Gagné gave evidence that it was June 9. He was called the day before to attend a meeting with you in Toronto in the morning, and he did so.

Ms. Eberts: That is his evidence. I do not have a specific recollection about the date and I do not want to speculate.

Mr. O'Connor: You do not take issue with that date, though?

Ms. Eberts: I am not speculating.

Mr. Chairman: That is called leading the witness, is it not?

Mr. Callahan: It is called asking the same question three times.

Mr. O'Connor: It is also allowed, Mr. Chairman.

Mr. Chairman: You have not been ruled out of order.

Mr. O'Connor: I gather that.

Mr. Sterling: He is trying to help her.

Mr. O'Connor: That is exactly what I am trying to do, to help her remember.

Just to back this up, I take it you made no notes and kept no dockets or diary. You may have written some correspondence, which we will come to, but you kept nothing that assists you in your memory as to when things occurred. Is that right?



Ms. Eberts: I have no dockets or notes with respect to the summer period; nothing.

Mr. O'Connor: But you had developed that questionnaire by that day, because I believe they gave evidence that you made reference to it that day. Do you dispute that? Do you recall sitting down with those people?

2:30 p.m.

Ms. Eberts: I do recall meeting with them and I recall it was after a meeting I had with Mr. Fontaine. As to what paper we had before us on that occasion, I really cannot say.

Mr. O'Connor: Did you assist Mr. Fontaine in completing that form?

Ms. Eberts: My recollection is that form was completed for him by Mr. Gagné. There was a typed version that came back to me that had very small type on it, and I associate that with Mr. Gagné's office. I did not help to prepare it.

Mr. O'Connor: Do you know when it came back to you?

Ms. Eberts: No, I am sorry, I do not.

Mr. O'Connor: Was there a letter accompanying it?

Ms. Eberts: I do not know.

Mr. O'Connor: Do you have any correspondence in that regard?

Ms. Eberts: I do not actually have any correspondence. I did not keep any of the correspondence relating to those questionnaires.

Mr. O'Connor: Did you keep a file on all this work for the Premier's office?

Ms. Eberts: As I told the people in the other inquiry, my arrangement with them was that the questionnaires came back to me and I reviewed them. Then I sealed my office copies in a brown envelope and put them in safekeeping in the Premier's safe under the charge of Mr. Ezrin. I returned the original version of the questionnaire to the minister in question to assist him in the later process of filling out the documents Mr. Wright was to send.

Mr. O'Connor: Are you saying there was no correspondence between you and your office and Mr. Ezrin and Mr. Borg or the Premier on these matters at all?

Ms. Eberts: When I sent the file up to Mr. Ezrin, I believe I sent a simple letter of transmittal explaining what was in the envelopes and asking that they be kept in safekeeping. That is about the extent of it.

Mr. O'Connor: Then you have a copy of the transmittal letter?

Ms. Eberts: I do not know. I did not review the general file on my conflict-of-interest activity to come here today, because my understanding was that we were going to deal with Mr. Fontaine. I cannot say offhand whether I have a copy of the letter of transmittal in my file.

Mr. O'Connor: Dealing specifically with Mr. Fontaine and on that point, I understood you were asked to bring whatever documentation you had relating to this matter. I take it you have not. Is that correct?

Ms. Eberts: I have some documents here that relate to Mr. Fontaine, but your questions now to me are with respect to general activities on conflict of interest. I was not asked to bring that material.

Mr. O'Connor: Specifically then dealing with Mr. Fontaine?

Ms. Eberts: Yes.

Mr. O'Connor: Do you have the transmittal letter sending his completed questionnaire back to Mr. Borg?

Ms. Eberts: No, I do not. Let me try to explain my system again. There was an original letter I sent back to each cabinet minister saying: "I have reviewed your form. I enclose the original of it for your assistance. I have these comments." I sent such a letter to Mr. Fontaine, and that was the original, on my letterhead, I sent to him.

Mr. O'Connor: You have that?

Ms. Eberts: No. Let me tell you. I have not finished yet. There was an office carbon of that letter. The original went to the minister. I made an office carbon, as we usually do, and then, in Mr. Fontaine's case, for example, there would have been an office carbon and a photocopy of that questionnaire, sealed inside a brown envelope, with his name on the front of it. All the envelopes for the various ministers were sealed inside an accordion folder, which was sent up to Mr. Ezrin, saying: "This material is for your safe. The envelopes inside have their names on them. Please do not open them. They are just for safekeeping," or whatever. I cannot recall. There was just one letter sent with the whole bundle of material.

Mr. O'Connor: As I understand it, a copy of that letter went to Mr. Gagné. Is that correct?

Ms. Eberts: I believe a copy of the letter I had sent to Mr. Fontaine went to Mr. Gagné.

Mr. O'Connor: Yes. Mr. Gagné commented that he did get a copy of the transmittal letter.

Ms. Eberts: My understanding was that Mr. Gagné was helping Mr. Fontaine. He was going to be doing the work, so he got a copy.

Mr. O'Connor: But you do not have in your possession and do not have access to the copy of the letter to Mr. Fontaine.

Ms. Eberts: No, I do not.

Mr. O'Connor: All right. You have indicated that it was a transmittal letter and that it made some comments about some of the information in the form. Do you recall what the comments were with respect to Mr. Fontaine?

Ms. Eberts: No, I am sorry, I do not recall that. It is over a year ago and I have not seen it since I sent it.

Mr. O'Connor: All right. Let us get specific. When seeing his form, do you recall whether he made disclosure in the form as to his holdings in Golden Tiger Mining Exploration Co.?

Ms. Eberts: Do you have a copy of the form here? I have not seen that since--

Mr. O'Connor: Yes, I have one copy. Perhaps there is another one.

Mr. Chairman: What is the exhibit number on that?

Mr. O'Connor: I think it was part of a larger exhibit, but it is Mr. Fontaine's completed questionnaire.

Mr. Chairman: We have one. We will get it for you.

Mr. O'Connor: Do you have the document before you now, Ms. Eberts?

Ms. Eberts: Yes, I do.

Mr. O'Connor: Initially, I will refer to page 4--they are not numbered, but it is the fourth page. That deals with the disclosure with regard to United Sawmill and Golden Tiger Exploration. Dealing with Golden Tiger, it reads, "This mining company is doing exploration work for which government grants are received." It then has a listing of shares held by Mr. Fontaine, his wife and his children, which total in excess of 75,000 shares. Do you recall seeing that and reading that statement?

Ms. Eberts: I reviewed the document that he sent back, so although I have no specific recollection of seeing this, I would assume that I saw it, if it is the same document.

Mr. O'Connor: Mr. Gagné's evidence was that the letter was sent in July, by which time Mr. Fontaine would have been Minister of Northern Development and Mines for a month. Do you recall that making an impression on you, that here we have the minister of mines owning shares in a mining company which is receiving grants from his ministry and that perhaps some comment should be made to him to get rid of them or do something with them?

Ms. Eberts: I think I am at a bit of a disadvantage because I do not have a copy of the letter I sent. If you have a copy of it, it would be good if I could review it. I may well have made a comment. I do not know. I cannot tell you.

Mr. O'Connor: We do not have a copy. We asked Mr. Gagné and he did not have his copy with him. We were relying on you.

Ms. Eberts: I can tell you overall--and I cannot put a specific chronological date on it--I suggested to Mr. Fontaine that he sell those shares, that he get rid of them. It was my understanding, before the expiry of the time for filing his material with the Legislature had taken place, that he did sell the Golden Tiger shares.

Mr. O'Connor: Going back to this specific comment, you can read it and you can understand the difficulty it would cause the minister of mines. You do not recall whether you made a phone call or took any other steps to get home to him the necessity right then and there, regardless of waiting until



the official time limit, the end of the year, that it might be the wiser thing to get rid of his mining shares because it just did not look good.

Ms. Eberts: As to taking any steps at all, I can just repeat that I did prepare a letter for him which contained my reactions to the material I reviewed. In the case of Mr. Fontaine, I tried to comment on the things that did make an impression on me in that respect. I cannot say at this distant time exactly what I said in it. I am sorry for that, but that is just my memory. It was quite a busy time, and I do not have a specific recollection of that.

Mr. O'Connor: As you say, you wrote to Mr. Fontaine with these comments and you took your copy, sealed it in a brown envelope and sent it up to Mr. Ezrin.

Ms. Eberts: It was sealed inside an envelope and inside an accordion folder.

Mr. O'Connor: Was that sent at the same time as you sent the letter to Mr. Fontaine?

Ms. Eberts: It was sent a short time after that.

2:40 p.m.

Mr. O'Connor: So the Premier's office would have had a copy of whatever remarks you did make very shortly after you made them.

Ms. Eberts: Yes, but they were not supposed to look at them. The understanding was that they were being kept there for safekeeping, because I had a lot of what I regarded as sensitive material that I did not want to keep in my firm. The arrangement was that we would use the vault in the Premier's office to keep this material sealed in confidence so that no one would look at it.

I had the seen the ministers in confidence. It was part of the arrangement with them that I was not going to tell anyone what they had disclosed.

Mr. O'Connor: Do you mean that no one in the Premier's office, including the Premier, was to look at the information with respect to his own cabinet ministers?

Ms. Eberts: That is right; that was the basis upon which I received confidences from people.

Mr. O'Connor: We can ask the Premier this, but I recall the Premier, as was said on several occasions, conducted an investigation and he found all his ministers to be "squeaky clean." Do you mean he had no information at all, that he never saw this stuff?

Ms. Eberts: He did not see the forms. The basis upon which the exchange of information took place was that after reviewing the forms, I was asked, as a house physician would be asked on the basis that medical information be provided, "Is there any problem with this person in this ministry?" and so on. It was the conclusion, if you will, that was to be discussed and not the specific, nitty-gritty detail.

Mr. O'Connor: If we go back briefly for a moment, guidelines were subsequently drafted which were somewhat different than the previous ones.

Ms. Eberts: The process of drafting the guidelines and the discussions in the transition team were going on at the same time as this individualized review was going on. Everything was happening simultaneously.

Mr. O'Connor: Were you given instructions or did you have anything-- What was your impression as to what guidelines were in effect pending the publication of the new guidelines? Was it your idea or impression that the old guidelines were to rule until the new ones could be drafted?

Ms. Eberts: The Davis guidelines were being shown to people as a working hypothesis, if you will, although the discussions in the transition team had progressed to the point where we were also telling them that it was likely there would be some changes. We were able to alert them to what the changes might be, but we told them that they had not been finalized yet.

Mr. O'Connor: And changes were subsequently made--

Ms. Eberts: Yes, there were.

Mr. O'Connor: --as Mr. Wright has indicated to us, two specific changes which he characterized as watering down or loosening the previous guidelines. Would you agree with the characterization?

Ms. Eberts: I do not know if I agree with the expressions "watering down" or "loosening" because I think I take a slightly narrower view of one of the additions than does Mr. Wright.

Mr. O'Connor: How so? Which one?

Ms. Eberts: The one with respect to contracts with the government, what I call the "OHIP clause."

Mr. O'Connor: Yes, I think he elaborated on that, but we will not get into that.

Is it your information and did you tell the ministers that they would be subject to the old guidelines pending the publication of the new guidelines?

Ms. Eberts: I told you what I was telling them. Here were the Davis guidelines, and they all had information about those. I also told them where they might expect changes to come.

This exercise of having them fill out the questionnaires was at least in part so that even before the new guidelines came out and the official government-run compliance process had been put in place, they could themselves begin making their own compliance arrangements.

They would have the information about the outlines of what they would face and they would have had some comment back from me about how I saw their situation. Quite independent and in advance of the formal process, they could do whatever they thought was necessary to bring themselves in compliance.

Mr. O'Connor: Were they generally apprised of the direction you were going?



Ms. Eberts: Yes, they were.

Mr. O'Connor: As to the new guidelines?

Ms. Eberts: Yes.

Mr. O'Connor: Why were the changes made? Do you recall?

Ms. Eberts: First, we decided not to make wholesale changes. We decided to make some minor changes to the Davis guidelines because of the interim nature of the work we were doing. Through the discussions in the transition team and through my discussions with Mr. Wright, there was also the sense that the private businessman in particular was pinched by the Davis guidelines. Mr. Wright gave me some specific instances where that was the case. It was decided there should be a kind of structure for private businessmen so that they would not have to abandon their business interests in order to serve in the House. That was the main area of change.

Mr. O'Connor: Were there any specific ministers who were affected by that problem whom you had in mind in developing the changes?

Ms. Eberts: We did not have specific ministers in mind during that discussion. The process was that the people in the transition team where this issue was being discussed did not have the information that I had about the ministers' private details, and so the discussion was carried on at a more general level in that forum.

Mr. O'Connor: Mr. Gagné mentioned that he talked to you a number of times over the summer of 1985. He was vague in recalling that it might have been between five and 10 times, and at another point he said perhaps three to seven times. Do you recall how many times you talked to him?

Ms. Eberts: I do not recall specifically. There were phone calls back and forth from time to time over that summer.

Mr. O'Connor: Was there discussion specifically with regard to Mr. Fontaine's problem in holding an interest in United Sawmill, which was a large, family-owned company?

Ms. Eberts: As far as I can recall, the discussions I had with Mr. Gagné were with respect to Mr. Fontaine generally. I cannot pinpoint specifically what we discussed in any particular discussion or in the series at all. They were about Mr. Fontaine's compliance efforts basically.

Mr. O'Connor: Mr. Gagné indicated that he could not recall much of those conversations either, so that makes both ends of the conversation, except he did concede that he could have been talking to you about René's problem in that it was a family-owned company and that something about a change in the guidelines should be necessary to help him. Do you recall anything about that being discussed?

Ms. Eberts: I cannot recall specifically, but I do recall that I had some conversations with Mr. Gagné about the sawmill business in particular. I mean this was one of the things that had come up in the course of my earlier discussions with Mr. Fontaine. It came up in the course of looking at the questionnaire and so on. Basically, the position was that Mr. Fontaine was in this lumber business that had timber-cutting contracts, I believe, with the



government at that stage. The forest management agreements had not yet been implemented, although my understanding is that under Mr. Pope, when he was minister, some development work had been set in train on it.

In any event, my discussions with Mr. Wright revealed to me that it had long been the practice in the administration of the Davis guidelines that the interests a minister had before he joined the cabinet were in a sense grandfathered so that existing interests did not have to be divested in order to comply with the guidelines. So for the immediate short run, there seemed to be no problem with the Fontaine interest in these contracts because they were already in place and so on. The status quo was just being maintained.

I did alert them to the fact that when the contracts had to be renegotiated or when the management agreement was being closed, if you will, they would run into a problem with the guidelines because this was a contract with the government.

Mr. Sterling: On a supplementary, where did you draw that conclusion from about the grandfathering of the contracts?

Ms. Eberts: That is what Mr. Wright told me had been the practice under the Davis guidelines, that existing interests, existing contracts and so on, were grandfathered.

Mr. O'Connor: Mr. Gagné told us that during the course of last summer he gave some advice to Mr. Fontaine that if the result of the conflict-of-interest guidelines was that he had to sell his family shares, Gagné's advice was, "Quit the cabinet before you do that." Did Mr. Gagné ever tell you that was what he was telling Fontaine?

Ms. Eberts: No. I was unaware of that.

2:50 p.m.

Mr. O'Connor: Going back again to Golden Tiger, the form indicates that Mr. Fontaine has substantial holdings and that there were grants coming and so forth. You say you reviewed the form. Did you discuss with anybody in the Premier's office, Mr. Ezrin or the Premier or anybody, the fact that you had learned the minister of mines had this problem?

Ms. Eberts: I cannot recall. I can say as a general matter that when the cabinet was being formed initially, I was asked whether there was any particular problem with anyone in a particular ministry. At that time, I told Mr. Ezrin of the problems that presented themselves to me on the basis of the tentative list of appointments I was shown. As to specific comments about specific people, I cannot recall at this distance.

Mr. O'Connor: At that point, before the cabinet was sworn, did you have the information about Mr. Fontaine and his holdings?

Ms. Eberts: It is possible I had this form before that.

Mr. O'Connor: Since you knew then he was to be minister of mines, did it not occur to you that something should be done about his holding these shares and getting grants? Did it not occur to you to speak to Mr. Ezrin or the Premier or somebody?

Ms. Eberts: I cannot recall the list I was shown. You are the one who is always saying, "minister of mines, minister of mines, minister of mines." I cannot recall whether the list I was shown had "minister of mines" opposite Mr. Fontaine's name.

Mr. O'Connor: As of June 26, you knew he was minister of mines.

Ms. Eberts: As of June 26? I told you I do not have specific recollections about specific dates.

Mr. O'Connor: I am belabouring the point, but it seems to me it is such an important matter that it would have leapt off the page at you before June 26 if you knew he was to be minister of mines, and certainly immediately on June 26. "Here is our minister of mines with a real problem. I had better do something." Yet your evidence is that you sent a letter to him in July--he got it on July 24--and sealed the copy and gave it to the Premier's office.

Mr. Callahan: Ms. Eberts, I want to clear this up. Mr. O'Connor seemed to put some significance on the fact that these forms were sent in an envelope to be placed in the Premier's safe. I gather those forms contained more than just information from which to draw whether there were conflicts. I gather the discussions you had with these people were more far-ranging than that and perhaps contained personal information. Was it your concern that it had been done on a confidential basis and that the items you had satisfied yourself were not directly related to conflicts should be preserved in terms of being kept from being viewed by other people?

Ms. Eberts: The discussions I had with these people began with the statement that they could talk to me in confidence because I would not pass on their information to anyone. There was at some stage thorough discussion with--I think the phrase was a general one--the Premier and his advisers, but it was on the basis of what I said, that is, the conclusion rather than the specific details. Because of people's willingness to talk to me in confidence, there was a tremendous concern on everyone's part that the information they had imparted with an assurance of confidence would not become public property. That is why that stratagem or technique was adopted.

Mr. Callahan: In essence, you are saying that over and above the information that may have been necessary to fill out that form for purposes of determining conflicts, there was a general discussion before that which may have dealt with items that had no bearing whatsoever on that but were told to you in confidence.

Ms. Eberts: That is right.

Mr. O'Connor: I am having trouble buying all this. Was it not your job to alert the Premier and his office to potential problems with his potential ministers and with his actual ministers after June 26? Was that not your mandate, in effect?

Ms. Eberts: That was the job, yes.

Mr. O'Connor: You are now telling us you were holding in confidence everything you heard from them and that you communicated it to no one.

Ms. Eberts: No, I am not telling you that. I am telling you that the specifics of the information I obtained were held in confidence by me. The



result of knowing that information in the sense that--I will use an analogy for you. A doctor who is employed by Noranda sees a man who works for Noranda and gives him a physical examination. He does not disclose to Noranda what the man's blood pressure is, what his blood type is or what his heart rate is. He says to Noranda, "This person is fit or is not fit for this particular job." That is the analogy. I did not disclose chapter and verse what people told me; but on the basis of a tentative list of proposed cabinet appointments, I discussed with Mr. Ezrin whether there was a particular problem with a match between a particular person and a particular portfolio.

Mr. O'Connor: Dealing with that analogy and in very general terms, perhaps without giving the specifics of the mining company in which he held shares and the fact that it received grants, did you not go to Ezrin and say on June 26 or 27: "Look, your minister of mines has a real problem. We had better do something about him"? That was your job.

Ms. Eberts: At this distance I do not have a specific recollection of what I said to Mr. Ezrin. It would be of considerable help to me and doubtless to you if you looked at my letter that I sent to Mr. Fontaine, because my recollection throughout is that I told Mr. Fontaine he had to get rid of the Golden Tiger shares.

Mr. O'Connor: He says quite the opposite; the first time anybody told him to do that was late in November.

Ms. Eberts: That is too bad. On the basis of my present recollection, I am telling you what I recall.

Mr. O'Connor: Your letter to Mr. Fontaine is late July. Rather than write a letter, I would have thought a telephone call on the evening of June 26 was in order in the light of the serious problem that had arisen.

Ms. Eberts: I am saying I would look at the letter to refresh my memory as to what my concerns were at the time. If I saw that letter, I could probably tell you more readily what the nature of the discussions were or what concerns I was raising at the time. In the absence of the letter, I do not have a specific recollection of what my concerns were about Mr. Fontaine at that time. That is my aide-mémoire, just as it was intended to help the ministers. Without that, you are not going to get much more out of me than I have already given you. I have given you my best recollection.

Mr. O'Connor: Did you send a copy of that letter to Mr. Wright?

Ms. Eberts: No, I did not.

Mr. O'Connor: I understand his evidence was you two did not have much communication throughout the summer. He really became part of the process after the new guidelines were in place in September and in order to see that they were probably adhered to. Is that fair?

Ms. Eberts: That is right.

Mr. O'Connor: The assumption of his role and your role. Those are my questions.

Ms. Hart: Give the witness a copy of the letter.

Mr. Chairman: We do not have it.



Mr. O'Connor: The Premier has it.

Mr. Warner: I want to go back over a couple of items to try to clarify some things. I appreciate it goes back a little way and you are attempting to apply your memory to very specific details. Are you saying that after you had completed your work you had some doubts about Mr. Fontaine being in a conflict-of-interest position, should he be appointed to the cabinet?

Ms. Eberts: I do not think I said that.

Mr. Warner: Did you?

Ms. Eberts: What I said to Mr. O'Connor was that if I were able to look again at the letter I wrote to Mr. Fontaine, I could better tell you what was my thinking at the time about his situation. Without that letter, I cannot assist you with my specific concerns at that time.

Mr. Warner: All right. Maybe I did not state my question clearly. I am not talking about specifics. After you had completed your work, and I am presuming when you had completed your work you were to report to Mr. Ezrin--

Ms. Eberts: Yes.

Mr. Warner: --at that time do you recall, regardless of what the specifics were, whether or not you had any concerns that maybe Mr. Fontaine was in a conflict-of-interest situation?

Ms. Eberts: I find the question quite general and I do not think I can answer it yes or no. I repeat that the aide-mémoire that I would rely on for what my concerns were at the time, if I had any, is that letter I sent. That really is the record of my thinking at the time.

3 p.m.

Mr. Treleaven: Excuse me. May I have a supplementary on this? Mr. Chairman, many times the witness has said she could not go further without this letter in front of her. Presumably, it is in the safe of the Premier. Presumably, it is in this building within five minutes' walk from here. Again, since the witness put it in that spot, it is "her property"; it is not to be opened by anyone else. Perhaps the witness could get it. We could take a break for five or 10 minutes. She could go and get it and have it in front of us so that we could then see it.

Mr. Warner: Who else has the letter?

Mr. Treleaven: As I understand it, the original went to Mr. Fontaine, a copy went to Mr. Gagné and those were the only copies. Am I correct? Sorry, the onion-skin, the file copy, then went into the brown envelope up into the Premier's safe.

Ms. Eberts: Yes.

Mr. Treleaven: Which would be your property at this point, would it not? Therefore, if no one else is to get it and to read it, presumably you are the only person who could get it or read it.

Ms. Eberts: It is really property that belongs to the ministers; it is their information. As between the ministers and myself, it is their confidence.

Mr. Warner: What about Mr. Gagné? He was sent a copy of this letter. Is that correct?

Ms. Eberts: Yes.

Mr. Warner: Have we asked him about it?

Mr. Treleaven: Yes.

Mr. Warner: What was his response?

Mr. Treleaven: "Personal and confidential," or words to that effect, were on it, and he felt a little leery of divulging it.

Mr. Warner: What about Mr. Fontaine?

Mr. Sterling: We have not asked him.

Mr. Warner: He received a copy of the letter.

Mr. Sterling: He did not divulge to the committee that he had that letter.

Mr. Warner: Perhaps we could ask him for a copy of the letter.

Mr. Treleaven: But he is 400 or 500 miles away and Ms. Eberts is right here. Her letter is 10 minutes away.

Mr. Warner: He is probably parked outside the Premier's office waiting for an announcement.

Aside from the letter, I was attempting to accommodate you in a way. I was listening to Mr. O'Connor's questions. You were indicating that he wanted specifics and that it was difficult to recall the specifics. Therefore, I purposely put a general question. What I am attempting to ascertain from you is whether at any point from the moment you began your job until now you felt, in your capacity as an adviser or in attempting to function in setting up the government, that Mr. Fontaine was in a position of conflict of interest.

Ms. Eberts: All I can say is that my concerns were set out in that piece of correspondence, and I do not think it is fair to Mr. Fontaine to give you a general answer on that. I really think the specifics are all that I would like you to have at this point. It is really unfair for me to answer that question yes or no a year from the event with no specific knowledge--from recollection, rather.

Mr. Treleaven: Maybe it is.

Mr. Callahan: May I interrupt? I do not want Ms. Eberts to knock the glass of water over.

Mr. Warner: No, just wait till I have finished, and then I will be pleased to yield the floor.

I am a bit puzzled by that in that, if I understood correctly what you mentioned earlier, you were asked to speak to Mr. Ezrin with respect to any of the individuals, and you were shown a list, in case any of them might have had a difficulty: "Would this be an awkward situation should this person be appointed to the cabinet?" Maybe it is just me, but I take that to be a very serious responsibility.

First of all, I would assume that the list would be very small in number--the cabinet was only a total of 25, and I would assume that not all 25 were on the list of potential difficulties--and that either Mr. Fontaine's name was on the list or it was not. If it was on the list, surely you would recall whether it was on the list and, second, what your general feelings were.

I am not asking for specifics. I am just asking, first of all, whether his name was on the list and, second, whether you felt uncomfortable when you saw the name there, that "Yes, I think maybe there is a problem here." That is all I am asking. I am sorry if it seems like an unfair question, but I honestly do not feel it is an unfair question.

Ms. Eberts: I do not think I can answer it the way it has been put. I am sorry.

Mr. Warner: Then we are back to the letter.

Mr. Chairman: Let me assist you a little, because I think this is rather central. You have been identified as someone who was a very active participant in this whole process. Whether or not there is a specific involved, implicit in the fact that a new cabinet was announced, new guidelines were announced and, as members of the House, we assumed that all the members of the cabinet followed those guidelines and met them is your concurrence that there was no conflict of interest.

As I have heard the evidence, in a year's time no one who was a participant has come forward and said: "Yes, but we identified at that time that there was a conflict of interest. We notified the Premier's office. We wrote to the minister," or whatever. Whether you say yes or no to this question, implicit in what has transpired here is your approval that there was no conflict at that time or that steps were taken within the guidelines to correct the problem. Is that an unfair statement?

Ms. Eberts: It is a long statement.

Mr. Chairman: It is a long one, but it has been a year.

Ms. Eberts: This may sound tedious, but out of my own sense of caution and my own sense of respect for the minister in question, I do not want to talk about general views about this minister and this topic without having a chance to look at that letter I wrote. That will refresh my memory about what I was thinking at the time and what my concerns were. The letter, more or less, speaks for itself. Rather than try to reconstruct it and say, "I had no concerns," or "I had these concerns," I would like to rely on that as an aide-mémoire and go from there, rather than speculating.

Mr. Chairman: In your view, is there a problem with our adjourning for a few moments and your getting that letter?

Ms. Eberts: There is probably a mechanical problem in the sense of my just showing up on the doorstep of Mr. Ezrin to say, "Now, I want my



stuff." I do not know whether he is there or whatever.

Mr. Warner: It would be more exciting if we all went.

Ms. Eberts: I would be happy to come back to you in September, having done some looking for that letter in the meantime.

Mr. Treleven: Mr. Chairman, excuse me, may I cut in here? At least 50 per cent of the last 20 answers have been tied to this letter, and we cannot go on with questions and the answers being, "I am sorry, I have got to refer to the letter." We have one way of getting at the letter without a Speaker's warrant, and that is to ask the owner of it, who sits in front of us, to please go collect her property, which is probably within 10 minutes of here, and ask whoever is the depository of that letter to send it here.

It is hers. Can she bring it here? It is crucial. I cannot see where we are going the rest of the afternoon unless we have that letter. I would like it dealt with. I do not want to put a motion. I would hope that we would all do this on a consensus basis.

Mr. Chairman: I have no problem if you would like to adjourn for a few moments to see whether it is physically possible to get the letter and present it to the committee. If that is agreeable to the witness, I would be prepared to do that. Is that all right with you?

Ms. Eberts: I can try, but I am not making any promises about its immediate availability. It has been a year since I put it there, and I do not think I can just show up and get it in five minutes.

Mr. Chairman: I think we would have to understand that. Is it the committee's wish to adjourn until say 3:30 p.m., at which time we will at least have some knowledge of whether we can get the letter this afternoon?

The committee recessed at 3:10 p.m.

3:42-p.m.

Mr. Chairman: We are ready to resume.

The letter in question has been tabled with the committee and we are now in the process of circulating copies of it. You have had a chance to study the letter for a brief while. Do you have any further comments you want to make before we proceed with questions? Are there any questions?

Mr. Sterling: Perhaps we could have one minute to read the letter over.

Mr. Chairman: Are we ready to proceed?

Mr. Callahan: At the beginning of this matter, you indicated that you had received from Mr. Fontaine a waiver of any privilege that might be attached to the documents. I gather it includes all documents.

Ms. Eberts: The waiver of privilege includes my testimony with respect to the conflict-of-interest allegations, including the documents. It is quite a broad waiver.

Mr. Callahan: Fine. Thank you.

Mr. O'Connor: We thank you for tabling a copy of the letter dated July 9, 1985, directed to Mr. Fontaine as minister of mines. One curious thing I noticed is that the letter is date-stamped "Ministry of Northern Affairs and Mines." Is that correct?

Ms. Eberts: Yes.

Mr. O'Connor: How is it that you got that copy? I understood the copy you were getting was from the Premier's office.

Ms. Eberts: When we broke, my instructions were to get a copy of the letter, and I got a copy of the letter from Mr. Fontaine's counsel.

Mr. O'Connor: Mr. Pratte is in the building?

Ms. Eberts: No, he is not in the building.

Mr. O'Connor: Was the letter sent July 9?

Ms. Eberts: I am not sure when it was sent. It would have been sent within a day or two of July 9. A lot of letters were done at the same time, so they might not have been sent right on that date, but it would have been within that--

Mr. O'Connor: There is a reference to enclosures in the letter. Can you tell us what those enclosures were and where they are?

Ms. Eberts: I think you have them.

Mr. O'Connor: Just the form?

Ms. Eberts: I think it is that form.

Mr. O'Connor: Are you sure there was nothing more?

Ms. Eberts: That is all I had. It makes reference to just one enclosure, and that is all I had from him. I think that is probably what it was.

Mr. O'Connor: In paragraph 2, you make reference to conversations you have had with Mr. Fontaine.

Ms. Eberts: Yes.

Mr. O'Connor: Did those conversations include his holdings in Golden Tiger? I take it they did, because you are referring to them in that same paragraph. Is that correct?

Ms. Eberts: That is right.

Mr. O'Connor: There you indicate you told him he would either have to sell his shares in Golden Tiger or place them in a blind trust.

Ms. Eberts: That is what the letter says.

Mr. O'Connor: Did that happen?

Ms. Eberts: The letter was intended to be a reflection of the

conversations we had had, so if it says that in the letter, then I would go by that and that is what the conversations were about.

Mr. O'Connor: Do you recall approximately how many conversations there would have been? You refer to "conversations" in the plural.

Ms. Eberts: I am not sure. Some of them were probably on the fly, but I recall that Mr. Gagné, Mr. Fontaine and myself had a meeting when Mr. Gagné came down from up north, and there might have been some telephone conversations either with Mr. Fontaine or with Mr. Gagné. I cannot say.

Mr. O'Connor: The meeting with Mr. Gagné was on June 9, according to his evidence.

Ms. Eberts: Yes, but then there were some (inaudible) since then.

Mr. O'Connor: What I am getting at is that this was before he was a minister.

Ms. Eberts: Yes.

Mr. O'Connor: At that point there would not have been any need to sell his Golden Tiger shares. That need would arise only after he became a minister, and particularly the minister of mines.

Ms. Eberts: That is right.

Mr. O'Connor: So you would have had conversations with him after he was appointed the minister.

Ms. Eberts: I expect so. I do not have any specific recollection of how many conversations I had.

Mr. O'Connor: Was there any correspondence with him other than this?

Ms. Eberts: I do not think so at that time.

Mr. O'Connor: Have you any way of checking that? Would you have followed the same procedure and put a copy of any other correspondence in the file with the Premier's office?

3:50 p.m.

Ms. Eberts: No. There was some correspondence later in 1985, when I did the blind trust for him, sending documents back and forth, but I think this letter of July 9 represents an end of my involvement with him from the point of view of a transition team. I was reporting off and sending this to him so that he could take whatever action he needed to take on that basis. It was expected that the official conflict-of-interest machinery would come into play and I did not have anything further to do with him after this.

Mr. O'Connor: To summarize, you had some conversations with him before the letter of July 9, telling him to sell the shares. You confirmed that advice in your letter of July 9. Between June 26 and July 9, did you speak to anyone else in the Premier's office about Mr. Fontaine's problem or about you telling him to sell his shares?

Ms. Eberts: I cannot be specific about that. I do not know.



Mr. O'Connor: Would you not have spoken to someone else? Was it not your duty to the Premier's office to get these people in line?

Ms. Eberts: No, actually that is not what my duty was. As I discussed, this was a transition team function. It was expected when the party formed the government that the official conflict-of-interest machinery would come into place. There is a man in the Attorney General's ministry who has looked after the conflict-of-interest matters for several years. He is the one who sends the letters to the cabinet ministers and the parliamentary assistants saying, "These are your requirements under the conflict-of-interest legislation." The initial check I was doing was to make sure there were no real problems in cabinet formation.

Mr. O'Connor: This was not a real problem?

Ms. Eberts: I told you before my recollection is that I told this man to sell his Golden Tiger shares. I believe this confirms that had been my advice. Any discussions I would have had with respect to him as a potential member of the cabinet would have been done in the context of that advice, which was that if he is put in the cabinet then this is the advice I have given him about what he must do.

Mr. O'Connor: Mr. Wright's evidence was that his role did not come into play until approximately September, so it really was your function over the summer to deal with this problem.

Ms. Eberts: No. The transition team function was like a distant early warning system for the ministers. There was a lot to do to get the government in place. At this point, and for part of the transition period, Mr. Peterson's people did not form the government and did not have access to the official government machinery.

Mr. O'Connor: Yes, but let us be realistic. After June 26, they were the government. Apparently you had several or some conversations with Mr. Fontaine after June 26, telling him to sell his shares and he did not. He had not sold them by July 9 when you confirmed that he should sell them. He did not sell them after July 9 when you told him in writing to sell them. He did not sell them until December.

Somewhere along the line between June 26 and July 9 and thereafter, did you not say to yourself, "I have told this guy to sell his shares and he has not"? Did you not then go to Mr. Ezrin? Did you not go the Premier or somebody else and say: "Look, I have this information. It is going to cause a real problem in this government. He is not doing as I told him. He is not cleaning up what is a clear conflict of interest. We have to do something about it"? Did nobody twig to this problem? It was your responsibility to do so, I suggest.

Ms. Eberts: You, of course, are sitting here in August 1986 telling me what my responsibility was over a year ago. The process we went through was that we did this as a preliminary. When they formed the government, there were people who were going to be in charge of the reporting to the Legislature of holdings and in charge of compliance. On the basis of the documentation that we had from the Davis government, it was apparent to us that a period was provided to the ministers during which they could make their efforts to comply.

For example, there was provided to the transition team a set of extracts from the cabinet ministers' handbook that had been in effect in the Davis

government. Basically it contained a letter from Mr. Wright saying: "Dear Minister so and so, enclosed are the guidelines. Enclosed are the reporting forms. You have until this date to do X; you have until this date to do Y; and you have until this date to do Z."

It was contemplated that when the government was formed, a similar letter would be sent to the Peterson cabinet saying: "You have to comply with these guidelines. Here is what they are, and here are the limits that are set in terms of time." Would you like to listen or would you like to read? I notice you are getting things from various people.

Mr. O'Connor: I can do both. Carry on.

Ms. Eberts: It was not my responsibility. I was not asked, and nobody expected that within 10 days I would act like some sort of policeman, saying: "Right. You have reported this. Now you must instantly go and comply, do this, do that and do the other thing." It was intended to provide information to them about the guidelines, some preliminary indication to the Premier that would help him form the cabinet and basically act as a stopgap so that they could begin their compliance efforts before they were confided to the Attorney General and his requirements.

Mr. O'Connor: What was the great difficulty in selling public shares on a public market? That would take picking up the phone and telling one's broker to sell the darn things.

Ms. Eberts: Why do you not ask the minister that?

Mr. O'Connor: I have, and he said no one told him to sell until the end of November.

Ms. Eberts: Here is a letter from me saying "Sell." I was not asked and it was not my responsibility to pick up the phone for him.

Mr. O'Connor: Can you recall after July 9? We have a couple of calls before and we have the letter of July 9. Did you keep hounding him?

Ms. Eberts: No, I did not keep hounding him. It was clear that Mr. Peterson's people formed the government. It was well within my knowledge that there is a man in the government, Mr. Wright, whose job it is, who is paid by the public, to hound ministers and to get them to comply, to fill out the forms and to do compliance, and he does this on a timetable.

Mr. O'Connor: After this letter, did you have any further involvement vis-à-vis Mr. Fontaine and the selling of the shares?

Ms. Eberts: I became involved again at the end of the year when he asked me to set up his blind trust.

Mr. O'Connor: Did you tell him to sell the shares then?

Ms. Eberts: I did.

Mr. O'Connor: At no time between July 9 and then did you have anything to do with it?



Ms. Eberts: No. It was never intended that as a member of the transition team I would be indefinitely involved in the compliance efforts of the minister.

Mr. O'Connor: At no time between July 9 and the end of the year did you tell anyone else in the Office of the Premier about this problem?

Ms. Eberts: That is not what I said.

Mr. O'Connor: This letter was sealed in his vault and that was it. Is that right?

Ms. Eberts: The letter was sealed. No, I did not have regular conversations or any conversations with them about this particular problem. I was not there as a policeman. I was there as part of an interim exercise. I wish you would try to appreciate that. This was a transition team. There was someone who was paid to do this job, if necessary to badger people to bring themselves into compliance with the guidelines. It was expected, and indeed it happened, that there would be a handoff from the transition team, which was an informal de facto arrangement, to this person, who is Mr. Wright. I do not know what Mr. Wright did.

Mr. O'Connor: How can Mr. Wright hound anybody when he does not even know about it? These things are locked up in the Premier's vault.

Ms. Eberts: Mr. Wright asks people for information about their holdings. He sends them a form to fill out, which will elicit from them the same kind of information.

Mr. O'Connor: What was the sense of these forms then? The sense of these forms was, as you say, an early warning system.

Ms. Eberts: It was just a dry run.

Mr. O'Connor: Which did not work at all.

Ms. Eberts: That is your conclusion.

Mr. Treleaven: You mentioned that you were involved in this early warning system in June; and later, near the end of the year, in dealing with the blind trust and with Mr. Fontaine, you again told him to sell these shares.

Ms. Eberts: Yes.

Mr. Treleaven: Can you give us a more specific date?

Ms. Eberts: I believe it was around November 27 that I was contacted and asked to set up a blind trust for him.

Mr. Treleaven: I have a copy of the blind trust with me. The shares involved are not listed here. There are only three: René Fontaine Holdings Ltd., Claybelt and one common share in Le Panache. Did you assume in this period of time that he had sold them? You were telling him to sell them in late November and you were setting up the blind trust that does not list them. Can you help me out here?

4 p.m.



Ms. Eberts: I told him again around November 27, when they contacted me to see whether I would set up the blind trust, that the Golden Tiger shares should be sold, and I was assured that Mr. Fontaine was selling them. When I met with him to have his blind trust documents executed on December 23, he told me they were sold.

Mr. Treleaven: Thank you for that.

Mr. Warner: If I may return to the letter dated July 9, was there a response from Mr. Fontaine to this letter?

Ms. Eberts: No.

Mr. Warner: To your recollection, did you issue any other letters to Mr. Fontaine after July 9?

Ms. Eberts: As I told Mr. O'Connor, there was some routine correspondence to send him a copy of the trust document and so on, but only at the end of the year. There was no correspondence in the summer or the fall with respect to his situation.

Mr. Warner: So there was no follow-up in written form from you to Mr. Fontaine or from Mr. Fontaine to you after July 9.

Ms. Eberts: No. As I said before, it was intended that there would be basically a handoff. This is a wrapup letter. Here I am saying: "Okay, I have looked at your documents, and this is how it seems to me. These are the things you have to contend with."

They all expected that they would be hearing from Mr. Wright and that he was the person who was really going to be badgering them to do their compliance exercise. There was no further need for me as a private individual to keep after them.

Mr. Warner: You identified the problem and notified him and then left it to his good sense--you hoped at least--to take your advice.

Ms. Eberts: Yes.

Mr. Warner: Then you met with him in November, or spoke to him?

Ms. Eberts: I spoke with Mr. Gagné in November when he asked me whether I would do the trust arrangement. Then it was, I think, December 23 that I met with the minister and had him execute the blind trust.

Mr. Warner: At that point, was the purpose of it to deal with the problem you have identified regarding the sawmill?

Ms. Eberts: No. The cutting contracts that he had when he went into the cabinet had not expired; at that point, they were the old contracts. My understanding from the previous method of administering the guidelines was that they were grandfathered, and it was really just in connection with the new forest management agreement that he would have to take some steps. It was premature in December to take steps of a formal, corporate nature with respect to that.

Mr. Warner: I see. Although you had identified in your letter that there was a target date for the agreement of April 1, 1986, we are talking about November 1985. At that point, were you concerned that there could be an agreement in April and, therefore, it would be important that if Mr. Fontaine was not going to sell the family business, it be put into a blind trust?

Ms. Eberts: At that stage, there was nothing of a corporate nature that could be put into a blind trust; it was still up in the air. They were making some arrangements about setting up a company that might hold the agreement. My understanding was that no deal had been concluded. I do not even know whether, at that time, the April expectation was holding firm. I told Mr. Fontaine in the summer basically to withdraw himself from it. My understanding was that he had essentially withdrawn from those negotiations, and we did not put it in the trust at that point. It was premature to do so.

Mr. Warner: I want to turn to the second page of the letter and the paragraph, parts of which are underlined. That is not your underlining, is it?

Ms. Eberts: No.

Mr. Warner: No. That would have been someone in Mr. Fontaine's office or Mr. Fontaine himself.

Ms. Eberts: I do not know who underlined that.

Mr. Warner: It is not yours.

Ms. Eberts: No.

Mr. Warner: From this I take it you had discussed on a previous occasion with Mr. Fontaine that there should be some changes in the guidelines, and you were going to recommend to the Premier that the guidelines be changed.

Ms. Eberts: Yes.

Mr. Warner: Did you feel that this would be of direct benefit to Mr. Fontaine, that it would solve his problem if the guidelines were changed?

Ms. Eberts: Let me put it this way. The motive for the change had nothing to do with Mr. Fontaine, but the effect of the change in the circumstances would benefit him.

Mr. Sterling: I want to ask a supplementary. I interpret your letter to say that if the guidelines were as they were under the previous government, in your opinion, Mr. Fontaine could not sit as a minister of that government. Is that correct?

Ms. Eberts: He would have a choice under the previous guidelines. He could either divest himself of the company or he could get out of the cabinet.

Mr. Sterling: He could not keep his interest in United Sawmill and be a member of cabinet under the Davis guidelines. Is that right?

Ms. Ebert: No. The Davis guidelines would not permit that.



Mr. Callahan: I need clarification on this. It is my recollection that Mr. Wright told us--and I do not know whether this was under the Davis guidelines or the proposed new guidelines--a minister could remain in the company, and if a matter came up that presented a conflict, the minister could remove himself from the decision-making process and have another minister sit in. I am trying to find the Hansard on that, but that is my recollection of what Blenus Wright told us. As I say, I do not know whether that was under the Davis guidelines or the proposed new ones, but I am fairly certain it was the Davis guidelines because I specifically asked that question.

Mr. Chairman: One of the reasons we keep a Hansard where every word is written down is that we do not have to rely on your memory. We can look it up.

Mr. Callahan: I am trying to find the date. It should be clarified because if it stands as Mr. Sterling has said and that is incorrect, then it is unfair to ask that question.

Mr. Sterling: I was asking Ms. Eberts her opinion, and I think she confirmed that what I stated was correct.

Ms. Eberts: I might usefully direct you to the third paragraph on the first page as well. It says:

"As Mr. Wright (of the Attorney General's ministry) and I discussed with M. Gagné, this contract"--that is the present one--"does not offend the guidelines"--that is the Davis guidelines--"because it was entered into before your appointment to the cabinet. As long as you refrain from any dealings, as a cabinet member, which affect that 'personal beneficial interest'"--and that is a separate part of the guidelines--"then the guidelines would be satisfied. However, any renewal of that arrangement would offend the guidelines."

That is the advice Mr. Fontaine was given at the time about that forest management agreement.

Mr. Warner: I return to the paragraph on page 2, where you mention, "Such a change would permit the plan for the master agreement to go ahead, although your interest in United Sawmill would have to be in a blind trust." You have identified that as a problem and you have identified that you think the guidelines should be changed and have proposed the changes to the Premier. This is all on July 9. The guidelines were changed by the time you met with Mr. Fontaine again in November.

Ms. Eberts: Yes.

Mr. Warner: Did you raise with him at that time this aspect about the interest in United Sawmill being put into a blind trust?

Ms. Eberts: Whether it was in November or not--it might have been later--I recall getting a bit of an update from him about where that forest management agreement negotiation stood. He did not have a lot of information, because he said to me he had not been involved in it. Other people had been doing it for him pursuant to this advice I had given him earlier to stay out of it; in fact, I may have received the information from Mr. Gagné. I cannot recall at the moment.



My recollection from the update I got from somebody is that it did not seem there was an immediate crisis about getting that interest into a blind trust in 1985. Obviously, it was something that was going to have to be looked at as it went along, but with the 1985 deadline approaching, there was nothing that had to be in a blind trust.

Mr. Warner: You mentioned that the motive for changing the guidelines or for proposing to the Premier that the guidelines be changed was not to assist Mr. Fontaine directly. What was the motive for proposing the changes?

4:10 p.m.

Ms. Eberts: As I told an earlier questioner, there emerged in the discussions of the transition team and also in my discussions with Mr. Wright the impression that the Davis guidelines bit a little hard on the private businessman, who was going to be put to the election of dismantling his business or of staying out of the cabinet. This was one group that seemed to be particularly hard hit by those guidelines. An investor in public shares could put his shares in a blind trust and continue to be in the cabinet, whereas someone in business, whether it be farming or anything else, was really stuck.

When I went to see Mr. Wright, I asked him whether there was anything in the previous guidelines that, over the course of his experience with them, had been troublesome or that he would like to see changed. He mentioned some instances where a person on a farm, a person in a tourist business had been pinched by those. In the discussions with the transition team, we thought it might be useful to try to give some relief against the harshness of those while, at the same time, setting up the best system we could to make sure someone in a small business who was in the cabinet was not going to be able to influence the course of government action with respect to his business.

Mr. Warner: I appreciate this interesting information. I was not aware there was a Tory alive who had suffered at all during the 42 years of government.

Ms. Ebert: I guess it depends on your perspective.

Mr. Chairman: Fingers are starting to wag.

Mr. Warner: Could you clarify--

Mr. Chairman: Mr. Warner, could you get back on to safer ground?

Mr. Warner: At least I know they are awake. Could you be more specific? Were you aware of certain individuals who served in the Davis cabinet whose business interests suffered because of the conflict-of-interest guidelines?

Ms. Eberts: I cannot name individuals because the information I got from Mr. Wright had the names blacked out. He gave me a couple of memos he had written to people who had private business interests with respect to dealings in contract with the Ontario government. I do not have those with me today, but I made them available to the committee investigating the Caplan allegations. There were a couple of concrete instances where the minister was told he could not take a grant or something like that, because he was in the cabinet.

Mr. Warner: I am sorry if I did not phrase it properly. I do not want the names of individuals. All I was interested in was a general description, which you have provided, as to how many--

Ms. Eberts: I cannot give you numbers. What I got from Mr. Wright was an impression of recurring problems. I do not have that in the file.

Mr. Warner: This was not an isolated incident? Were there several cabinet ministers over a period of time whose business interests suffered because of the strictness of the guidelines?

Ms. Eberts: That is my understanding. He gave me these instances. My understanding was that the two memos he gave me were exemplary and that there were more than the two instances, but we did not really talk about how many. He just said this was a problem that crops up under these guidelines.

Mr. Warner: Based on that, you thought it was appropriate to suggest an alteration in the guidelines.

Ms. Eberts: Based on that and based on the discussions in the transition team. There were people from various backgrounds, including municipal politics. Their impression was that a conflict-of-interest provision sometimes bit a little hard on the private business person or the person with a small business.

Mr. Warner: You mentioned that you met Mr. Fontaine at some time in November. At what point did you understand that your responsibility, the job that you were asked to do, had ceased?

Ms. Eberts: Which job? The transition job?

Mr. Warner: The transition job, but specifically the follow-up to this letter of July 9, where you have identified particular problems. How far along is it? Is it far beyond November 1985? Is it into 1986 when you feel your job was over and you have no more responsibility for identifying problems?

Ms. Eberts: Essentially, the sending out of this letter and others like it represented a sort of watershed in one respect. By that time, I had given a general talk to members of the caucus and I had met with specific people who had wanted to talk to me. With respect to some where problems had come up, I sometimes had additional meetings, as I did in the case of Mr. Fontaine. Then I reported to them in this letter, "Okay, here is a snapshot of where we stand now." They understood that a formal process would take over in September. That was the end, if you will, of the sort of one-on-one involvement I had on the transition team.

The other aspect I told you about was that, with the transition team members generally, we discussed what changes should be made to the guidelines. I followed on with that into September by writing to the Premier's office about the suggested changes, getting a response back from them about what changes were being approved, writing to Mr. Wright and saying, "Here are the changes that were approved" and, in fact, having typed up in my office the copy for the conflict-of-interest guidelines for the ministers, the parliamentary assistants and the staff people. It was on the sort of general level, if you will, that I continued into September, but not with the individuals.

When I heard from Mr. Fontaine in November, it was that he was still



dealing with Mr. Wright, trying to get himself organized to file his material by the deadline. He was literally coming back to me instead of just having continued on with me.

Mr. Warner: Then you anticipated that Mr. Wright would take over the responsibility from the office.

Ms. Eberts: Mr. Wright was to take over the responsibility for the general compliance exercise as of September. After he had the new guidelines, he would do his routine that he did with the ministers: send them the letters, send them the forms they had to fill out and so on.

Mr. Warner: Then you did not meet again with Mr. Fontaine after November 1985?

Ms. Eberts: No.

Mr. Warner: That was it?

Ms. Eberts: Oh, November 1985. I did not meet with him in November 1985. I was asked by him to do his trust in November 1985 and I met with him subsequently to that to have him execute the trust documents. I met with him at another point to get him to execute resignations from various directorships. I think that was in January.

Mr. Warner: Thank you.

Mr. Treleaven: Ms. Eberts, concerning this transmittal letter, of which we have a copy now, Mr. Pratte is Mr. Fontaine's solicitor and was here with him a week or so ago. Do you know where Mr. Pratte got his copy of this transmittal letter? You got this copy from him. Do you know where he got his copy?

Ms. Eberts: I got this from a lawyer in his office. I was not able to speak to him and I do not know where he got his copy.

Mr. Treleaven: Right, another lawyer in his firm. You said before that the original went to Mr. Fontaine, a copy went to his accountant, Mr. Gagné, and a third copy went into the Premier's safe. It seems to me that he had to get his copy from one of these places. Is it possible that it came from the Premier's safe?

Ms. Eberts: No. The copy that went into the Premier's safe was just an onion-skin and it did not have my signature. It just had my initials, ME, in the signature spot, so this is not the onion-skin.

4:20 p.m.

Mr. Treleaven: The copy we have was received by the Ministry of Northern Affairs and Mines on July 24, 1985, in the minister's office. Can you help us out as to how this copy got to the Ministry of Northern Affairs and Mines? Would it be Mr. Fontaine's personal copy or the one in the Premier's office? No. You are saying it cannot be the one in the Premier's office.

Ms. Eberts: It is not the one in the Premier's office.

Mr. Treleaven: Or would Mr. Gagné, the accountant, have provided this to the ministry's files?



Ms. Eberts: I have no way of telling.

Mr. Chairman: Maybe I can help you out. The letter was addressed to the Honourable René Fontaine, Minister of Northern Affairs and Mines, 10 Wellesley Street East, 10th Floor, Toronto, so perhaps it got there by means of the mail.

Mr. Treleaven: Fine, but it is personal and confidential, and normally when letters come personal and confidential, they are unopened. They do not usually have the ministry's stamp smashed on the way 10,000 other pieces of mail do.

Mr. Chairman: Personal and confidential in my office is usually the morning laugh for everybody who works there.

Mr. Treleaven: Since it appears that it was opened by the ministry, rather than Mr. Fontaine, obviously any number of copies were floating around.

Ms. Eberts: I cannot speculate on that.

Mr. Treleaven: A while ago, in response to Mr. O'Connor, you said it was your duty to give an overall opinion of the cleanliness--I think that was the word used--of cabinet candidates, and not the nitty-gritty, to the Premier. That is why you put copies of specific letters, such as the July 9 one, in the brown envelope. Did you give a clean report to the Premier on Mr. Fontaine?

Ms. Eberts: I do not know if "cleanliness" is my word. It does not sound like a word I would use.

Mr. Treleaven: How do you like "suitability"?

Ms. Eberts: Let me just say that the method used was that I was shown at what was regarded as the appropriate spot in the cabinet-making process a list of people matched up with proposed ministries. I do not have a detailed recollection of who the people were or what the proposed ministries were but--

Mr. Treleaven: You, therefore, must have approved, said he was clean or whatever.

Ms. Eberts: Whatever it was, if Mr. Fontaine's name is on the left and a proposed ministry is on the right, it would have been part of my responsibility to say, "Yes, that looks all right to me on the basis of what I know." I cannot recall whether there was additional discussion, such as "I told him he should sell his Golden Tigers" or whatever, because I did not keep any notes of that process.

Mr. Treleaven: Is it possible that in giving your suitability report you did indicate some other things that had to be done ahead of time?

Ms. Eberts: It could have been, because the purpose of the exercise was to say, "This person is a good match or is not a good match for this." If the person would be a good match but had one more process to go through, I would have said that as well.

Mr. Treleaven: Can I take it that if you knew it was René Fontaine on the left and minister of mines on the right and you knew he had mining

shares and so on, it is possible you said, "He is suitable as soon as he divests himself of certain shares or mining shares" or something like that?

Ms. Eberts: I could have said, "He is suitable, but he has been told to sell these shares." The assumption is that there is a process here that all the ministers have a time limit by which they have to comply. He would have to sell his shares within a certain length of time which was a time limit applicable to all the ministers.

Mr. Treleaven: You talked about this blind trust letter. I take it you wrote to Mr. Fontaine and sent him a copy of the blind trust agreement with a draft agreement.

Ms. Eberts: I do not think I wrote to him with a copy of the draft agreement. I think I attended upon him with a draft agreement which we reviewed and then he executed it. I sent him a letter afterwards saying, "Enclosed are the following," and there was a copy of the executed trust, with a trust company having executed it, and various other documents I was sending him for his records. It was a reporting letter rather than a letter with a draft.

Mr. Treleaven: This was unconnected with the transition team. Is that correct?

Ms. Eberts: Yes, that is right.

Mr. Treleaven: Who were you acting for at that point?

Ms. Eberts: Mr. Fontaine.

Mr. Treleaven: You were acting as his solicitor?

Ms. Eberts: Yes.

Mr. Treleaven: No one else's?

Ms. Eberts: No.

Mr. Treleaven: Mr. Fontaine also had a solicitor. Can you help us out here? Mr. Gagné stated to the committee that he gave a copy of the trust agreement to Mr. Bourgeault--do I have the correct name?--the solicitor for Mr. Fontaine in Kapuskasing, I believe, to look over; in his words, "Look it over and see if everything is okay." Why did he have two solicitors sort of performing the same function?

Ms. Eberts: As I understood it, M. Bourgeault was a lawyer who did a lot of work on the companies he was involved in. He was his regular northern solicitor. I was just asked to do the trust. I did not do his regular business, but because he knew I had some familiarity with this area, he asked me whether I would set up the trust for him. That is all.

Mr. Treleaven: Again, you were receiving no fee. Is that correct?

Ms. Eberts: I have not billed the file, if that is what you mean.

Mr. Treleaven: You were Mr. Fontaine's solicitor. Was it on the normal understanding, on a fee-for-service basis?



Ms. Eberts: He retained me as his solicitor and I kept time dockets of a sort on that.

Mr. Treleaven: At the time of the trust agreement--

Ms. Eberts: Yes.

Mr. Treleaven: --you were on a different basis. When you were dealing with him in the earlier matters, you were there as his solicitor, but in an unpaid or friendly type of situation. When you got to the trust agreement, you were in a normal solicitor situation whereby you were retained and you kept notes. In the one case you kept no memos and notes, and in the other you kept memos, notes and a file.

Ms. Eberts: I have a bit of correspondence, I have the trust documents and I have the odd telephone slip that I kept in the file.

Mr. Treleaven: In this correspondence in connection with the trust agreement, you told us you told him orally in late November to sell his Golden Tiger shares. Did the letters, this correspondence in connection with the trust agreement, also tell him to sell the Golden Tiger shares?

Ms. Eberts: There is no correspondence with respect to the trust agreement per se. I got most of the information I needed to make the schedules and so on for the trust agreement by telephone, and so my notes of that really are on pieces of paper that I use for telephone messages. I did the trust agreement and then I sent him a reporting letter saying, "Here is all the documentation from the trust."

Mr. Treleaven: But the correspondence did not refer to it. You told him orally, by telephone and so on, to sell the shares.

Ms. Eberts: That is right.

Mr. Treleaven: You did not write.

Ms. Eberts: I do not have a letter. At one stage, after I had been contacted again in November, I did have a discussion with him about the Golden Tiger shares and he said at that time he was going to sell the shares on the Montreal exchange. I have a bit of a note to that effect that I just made while I was talking to him on the phone. It does not have a date on it, but the context of it tells me that is when I made the note. Then when I went to see him on December 23 to have the documents executed, he told me at that time--basically, he just said: "They are gone. They are sold." I did not make a note of that, but I do recall it quite plainly.

Mr. Treleaven: Thank you. We have two lists in connection with Mr. O'Connor's discussion. You mentioned that you had seen a typed-out list from a small typewriter. I show you this document, which I think you are probably referring to. It is also from a small typewriter. Is that what you would have seen?

Ms. Eberts: It is this document that I saw, the reporting form that Mr. O'Connor gave me.

Mr. Treleaven: The scheule A?

Ms. Eberts: It is headed, "René Fontaine, Cochrane North," and starts, "Part I;" this document here.



Mr. Treleaven: Right. That has only three items. Schedule A to that has three items, if I am not mistaken. That is correct, "René Fontaine, Cochrane North." That is the same one you have. It has family investments and so on. Then there was another document that we have had provided to us as exhibit 2/009, which was his disclosure form. Have you seen that disclosure form?

Ms. Eberts: No, I have not. That would have gone to Mr. Wright.

4:30 p.m.

Mr. Treleaven: You have never seen his disclosure form?

Ms. Eberts: Not the one he submitted to Mr. Wright. I have seen a document that was sent with a letter from M. Héroux to Mr. Wright. That was made available to me in November when I was doing his blind trust. It was a letter that gave some additional details to Mr. Wright about Mr. Fontaine's holdings. It is a letter with a couple of pages of information attached to it.

Mr. Treleaven: There is a considerable difference between the document that is attached to the--this looks to be a preliminary one. It is my understanding this document that is attached to the "René Fontaine, Cochrane North, Compliance with the Legislative Assembly Act," the one that you have, is quite different from the disclosure one. There are items on each that do not appear on the other. Are you aware of that? For example, the disclosure form mentions Hearst Forest Management, but the one attached to the Compliance with the Legislative Assembly Act does not. There are many others.

Mr. Callahan: The witness indicated she did not see that one. Is Mr. Treleaven giving evidence?

Ms. Eberts: I have not seen the form there. I have not seen that.

Mr. Treleaven: The disclosure form, but this other document that you did see, what does that list? Is it the same as the disclosure form?

Ms. Eberts: I would venture to suggest it is not the same as the disclosure form because it is a letter concerning shareholdings in private corporations, partnerships and proprietorships, so it is not as extensive as the disclosure form.

Mr. Treleaven: You reviewed with Mr. Fontaine this document known as the Compliance with the Legislative Assembly Act?

Ms. Eberts: Yes.

Mr. Treleaven: Did you go over the Legislative Assembly Act with him? I am not speaking about him as a minister now. Did you go over it?

Ms. Eberts: I went over it in general terms with the members of the caucus who came to my talk on the Legislative Assembly Act. Then if any of them had any specific questions, I would go into it in more detail.

Mr. Treleaven: Did you know he was a major shareholder in United Sawmill Ltd. and thereby in Hearst Forest Management?

Ms. Eberts: I had information that he was in United Sawmill Ltd. My understanding was that Hearst Forest Management was the company that was going

to be incorporated to hold the forest management agreement and it had not yet been done at the time I was talking to him. It was proposed or it was in the works, something like that, but it was not a reality at the time we were doing the trust documents.

Mr. Treleaven: You mentioned earlier that you and Mr. Wright differ slightly on the interpretation of sections of the Legislative Assembly Act. Do you differ with him on his interpretation of section 10 that it is improper for an MPP to sit while he is a major shareholder in a corporation that deals with the government? Do you agree or disagree with him on that section?

Ms. Eberts: The comment I made specifically is with respect to the conflict-of-interest guidelines and not the Legislative Assembly Act. The point in particular is that Mr. Wright and I do not take exactly the same view of what I call the OHIP exemption in the conflict guidelines; that is, the position of ministers with contracts with the government.

Mr. Treleaven: Do you agree with Mr. Wright's interpretation of the Legislative Assembly Act about it being improper to sit as an MPP while being a major shareholder in a company that deals with the government?

Ms. Eberts: He and I have not discussed that. I did not review the Legislative Assembly Act before coming here, so I do not feel in a position to comment.

Mr. Treleaven: Did you discuss that with Mr. Fontaine?

Ms. Eberts: As I said, I gave an overview of the Legislative Assembly Act to people in a general talk.

Mr. Treleaven: You knew he was a major shareholder in United Sawmill, and I take it you knew it was in the timber business and received licences from the government. Would you not have therefore discussed that with him as MPP if you generally discussed the Legislative Assembly Act?

Ms. Eberts: I have no specific recollection of whether we discussed that generally. I know we had several conversations about the situation of United Sawmill, generally speaking. I do not have a detailed recollection of exactly what sections we dealt with. My information to him on the subject of his timber situation is as outlined in that letter of July 9, focusing particularly on the minister's side of things and on the situation under the guidelines. The focus that he and I had when we were talking about this was what the situation was under the Davis guidelines and what the situation would be under the proposed changes.

Mr. Wright and I at one stage did have a talk with Mr. Gagné about the situation generally; so Mr. Wright may be able to assist you with his recollection of what was discussed, but beyond that, I cannot tell you anything more specific.

Mr. Treleaven: Right. Just one other question. Throughout this whole matter, were you the solicitor for anyone else or acting for anyone else besides Mr. Fontaine?

Ms. Eberts: What do you mean? I carry on a busy law practice, if that is what you mean.



Mr. Treleaven: Sorry. In connection with the transition team, in connection with the conflict-of-interest guidelines of this government at that time, were you the Premier's solicitor? Were you retained by the Premier or by anyone connected with him or by anyone in the government?

Ms. Eberts: With respect to the completion of the formulation of the guidelines that would be used by this government, I dealt with the Premier's office. I regarded myself as--

Mr. Treleaven: Having been retained.

Ms. Eberts: --being retained by them in order to tidy that up and to provide to Mr. Wright the package he would then distribute to the ministers. That function was more or less complete by September, when he started sending things out. After that, as with Mr. Fontaine, if someone had a particular question, he would call me; but there was no overall, systematic retainer, if that is what you are driving at.

Mr. Treleaven: But there were instances where you would be retained if an occasion came up. If somebody had a problem, you opened a file and built it in the normal way.

Ms. Eberts: Let us just say that my transition team role, or whatever, and the carryover from that was more or less over in September. After that, anything I did, I did as I do with my ordinary clients. I am no different.

Mr. Warner: May I have a supplementary? You were acting in the capacity of setting up the blind trust for Mr. Fontaine?

Ms. Eberts: Yes.

Mr. Warner: Were you acting in that capacity for any other member of the cabinet?

Ms. Eberts: I cannot answer that question, actually, because the only waiver of privilege I have is that for Mr. Fontaine. I would take the position that my solicitor-client privilege prevents me from even saying whether I was acting for anyone.

Mr. Warner: From identifying whether--

Ms. Eberts: Or saying whether I was or whether I was not.

Mr. Warner: When you are finished, I have something for the chair.

Mr. Treleaven: That is fine; go ahead. I am done.

Mr. Chairman: You have a point you wanted to bring up?

Mr. Warner: I am trying to follow very closely what Ms. Ebert's role is in all of this is.

Mr. Callahan: Is this a supplementary, Mr. Chairman?

Mr. Chairman: Yes. As soon as I hear it, it will be.

4:40 p.m.



Mr. Warner: It seems to me that one of the essential elements in this is the changing of the guidelines. Ms. Eberts was the person who recommended the change. One of the beneficiaries of this change is Mr. Fontaine. I think it is relevant to know whether there were other clients of Ms. Eberts who also were beneficiaries, since she stated that the motivation for changing it was not in order to allow Mr. Fontaine to be a beneficiary. I am stuck in a dilemma in that Ms. Eberts claims that, because of solicitor-client privilege, she cannot reveal to me or to anyone else whether or not any of her clients are members of the cabinet, other than Mr. Fontaine. I believe that information is relevant and I am at your mercy as to how we obtain that information.

Mr. Chairman: Let me help you out here. I think I have heard the witness state fairly clearly a number of times this afternoon that she acted for the government, that is, the entire cabinet, during the summer period, up until the time these new guidelines were put in place. She has given you that information. Subsequent to the new guidelines being put in place, her role as part of a transition team was really not functional. I think I would respect that after that point, if she has entered into some agreement to act on behalf of someone after that time period, that is really none of our business. I think you can troll the waters up until the September guidelines were put in place. After that I really fail to see the relevance. I am open to argument here about whether it might be or not, but I fail to see that.

Mr. Treleaven: I do have one more question, Mr. Chairman.

Mr. Chairman: I was afraid of that.

Mr. Treleaven: Ms. Ebert, I am a little confused here. I have two documents in front of me. One is this compliance with the Legislative Assembly Act that you went over with Mr. Fontaine and we referred to in one of the lists of holdings at the back before. It starts, René Fontaine, Cochrane North, Family Investments, etc. Then it lists off, for example, United Sawmill, one-third interest, etc. You knew he owned that, because this is the document you helped him with. Then later, when you prepared the trust agreement, in schedule A of the trust agreement, it sets forth those items which are listed and put into a blind trust. United Sawmill is not listed there. Can you give me the explanation for that? You cover the Golden Tiger.

Ms. Eberts: I need to find the trust agreement.

Mr. Treleaven: I have a copy right here. It mentions René Fontaine Holdings Ltd., Claybelt Lumber and Le Panache--only three assets.

Ms. Eberts: My understanding is that René Fontaine Holdings Ltd. was actually the one that held the United Sawmill shares. That is his overall holding company. He and his wife had shares in René Fontaine Holdings Ltd. and both his trust indenture and the one done for her list as trust property the shares in René Fontaine Holdings Ltd. That is the omnibus trust property, if you will. That goes in the blind trust, and anything it owns then follows. When I started digging into the minister's holdings in order to figure out what should go in the trust, it was at that point that through some discussions with Mr. Gagné I hope I got to the bottom of the trace of holdings. It is the major holding company that was put in. I think that owns the United Sawmill shares.

Mr. Treleaven: I suggest that maybe you did not get to the bottom of it. It was my understanding that in the case of United Sawmill, as the original Legislative Assembly document states, the one-third interest owned by René and Yolande was a personal holding, not through a holding company. But when you get to schedule A, if that were so, why would René Fontaine Holdings Ltd. not be back in this one? René Fontaine Holdings is not in the first one. We cannot have it both ways. Even if it was a holding company, René Fontaine Holdings Ltd. owning United Sawmill, why did it not show up in the Legislative Assembly document?

Ms. Eberts: I cannot really say, except to suggest that sometimes, when people run one-man or one-person or closely held family corporations, they are not always incredibly particular about what company actually owns things. They will say, "I own this or this company own this." There are several corporate alter egos. That is just a general observation I would make. I think the information in schedule A is actually the information that we need and that represents the second generation of inquiry after this earlier document that was filed. That is my only suggestion.

Mr. O'Connor: I have just one question, if I may. When did you first become aware of the escrowed shares, the 17,000 forgotten shares?

Ms. Eberts: I think it was when I read about them in the paper.

Mr. O'Connor: You had no knowledge of them in 1985 at all.

Ms. Eberts: No. The discussions I had with Mr. Fontaine about the Golden Tiger shares were about the ones that were sold on the open market.

Mr. Callahan: Mr. Chairman, am I on the list?

Mr. Chairman: Yes. For \$10, you can see the list.

Mr. Villeneuve: How long did the transition team stay in place?

Ms. Eberts: There was an initial period when we all met or tended to meet together in reasonably large committees. Then we broke off into separate responsibilities and we tended to stay with those responsibilities until they were done. There really was not a final, "This is the end of the transition team," per se. For example, I was doing transition team business, in my view, until I finished with the guidelines. That was really the only transition team work I was doing in the latter part of that summer.

Mr. Villeneuve: How many people were involved with the transition or were on this team?

Ms. Eberts: I cannot recall at this stage. There might have been about 12 or 14.

Mr. Villeneuve: About a dozen people. I notice the name of the firm you are affiliated with is not at the top. Were you acting as Mary Eberts, lawyer, or as Mary Eberts, affiliated with a law firm? What was your capacity?

Ms. Eberts: I am a partner in a law firm.

Mr. Villeneuve: And the name of the firm?

Ms. Eberts: Tory, Tory, Deslauriers and Binnington.



Mr. Villeneuve: I have heard of it. Is there any particular reason that law firm's name is not up there?

Ms. Eberts: I was doing the work as a lawyer and I was doing it as a member of the firm, but it was not a firm opinion that I was giving; so I used the letterhead that did not have the firm name on the top.

Mr. Villeneuve: Who was your client at this point? Who were you working for?

Ms. Eberts: This was still the transition team phase.

Mr. Villeneuve: So the new government is your employer.

Ms. Eberts: When we began the transition activity, it was not clear that it would be the new government. It was the Liberal caucus, if you will, at that time. Then it became the government during the transition.

Mr. Villeneuve: Being a member of the legal firm you have just mentioned, is it fair to ask whether you have any political affiliations, philosophical, financial or whatever?

Ms. Eberts: I have in my day supported members of all political parties.

Mr. Chairman: That is a good lawyer talking. He is trying to determine whether this was undercover work you were doing.

Mr. Villeneuve: I gather it is fair to say that at present you are a supporter of all parties.

Ms. Eberts: No. It is no secret that while maintaining a running allegiance to the Liberal Party, I also preserve my freedom to support candidates of different parties if I appreciate what the person stands for and like them as individuals.

Mr. Villeneuve: A good answer. In this correspondence, I notice you put a great deal of emphasis on Golden Tiger and also on a possible forest management agreement to Hearst Forest Management. You also say in the top paragraph of page 2: "This master forest management plan does fall outside what is permitted by the guidelines. As the guidelines now stand, you and your companies would not be able to enter into it."

It is also a fact that Mr. Fontaine had told a number of people that unless an FMA were granted to Hearst Forest Management, he would resign his seat. Did that present a great dilemma for you at that time or was that beyond your mandate?

4:50 p.m.

Ms. Eberts: It was not my mandate to look after whether or not Mr. Fontaine resigned. I just told him what the guidelines were and what the situation was. As I said before, the discussions we had were about the nature of the guidelines we were carrying on in the transition team with input from several sources.



Mr. Villeneuve: But you made him very well aware that he was on thin ice pertaining to that particular area, a forest management agreement, that even if he were not the minister handing out this FMA, it would be a very delicate situation at best.

Ms. Eberts: I hope that comes through from the letter.

Mr. Villeneuve: The very last paragraph says, "I expect you will hear from the Premier's office in due course concerning the change in the guidelines." Obviously, a change in guidelines is in the wind. When would the Premier go into this safe, brown envelopes or what have you, and be aware of all this stuff?

Ms. Eberts: The Premier would never go into the brown envelopes and be aware of it. What was happening was that we in the transition group were discussing what changes should be made in the guidelines. Then I wrote to the Premier's office and said, "The suggestion for the changes in the guidelines that we would make to you is as follows." Then there was the response back from the Premier's office, "Yes, this is the change that we agree to." I do not have that correspondence with me, but I filed it with the public accounts committee when I went to testify with respect to the Caplans.

Mr. Villeneuve: I have to assume from the last paragraph that you twigged the Premier's office or the Premier almost immediately that there was a problem in the Fontaine situation.

Ms. Eberts: No. Actually, this reference is really a sort of out-of-date reference to what I thought the process was going to be. At that time, I thought we would propose to the Premier's office what the changes in the guidelines should be, and then the Premier's office would take care of publicizing the new guidelines: that is, the Premier's office would send them to the Attorney General (Mr. Scott) and would send them around the cabinet.

What actually happened in fact was that the Premier's office got back to me and said: "These changes have been approved in the guidelines. Would you please advise Mr. Wright," and so on. In effect, I wound up preparing the revisions to the guidelines and sending them to Mr. Wright for distribution to the ministers; so this reference here is just an out-of-date reference to what I thought the process would be. There was not a specific conversation or an alert to the Premier's office that: "Oh, Mr. Fontaine is going to be interested in the guidelines changes. Because of thus and so, you had better let him know." It was not as particular as that at all.

Mr. Villeneuve: It is rather strange that Mr. Gagné, Mr. Fontaine's accountant, made a statement to the effect that Mr. Fontaine was literally almost hoping to hear that he would have to sell United Sawmill. This was a statement made and recorded in Hansard. It makes us all wonder at this stage of the game just what came first and what prompted what.

Ms. Eberts: I cannot say what was in Mr. Fontaine's mind.

Mr. Villeneuve: He has problems with that too. Thank you.

Mr. Callahan: Ms. Eberts, if I understand you correctly, what you have said to us, in a nutshell, was that you were involved in the transition team and, after that, you assumed that the obligation would be taken on by Blenus Wright.

Ms. Eberts: That is right.

Mr. Callahan: I can assume from this that Blenus Wright has been doing this for some considerable time and that this was the process over the years of the Davis government.

Ms. Eberts: Yes, that is right.

Mr. Callahan: I assume with this that Blenus Wright was the person who would also give advice to these ministers and then would have the responsibility of doing whatever else was necessary, such as filing the documents or tabling the documents.

Ms. Eberts: Yes. When he got his process in gear, it consisted of sending a letter to the ministers with reporting forms appended. They would have to fill those out and send them back to Mr. Wright. He would take a look at them and get back to the ministers with any questions he had. When he was satisfied with the forms, he would send the part relating to public disclosure over to the Office of the Assembly, where they would be put on the public record. I understood that to be the process and I tried to communicate to the ministers I met with that this was going to be the process.

Mr. Callahan: That was my next question. I gather that the advice you were giving them was what you termed a dry run.

Ms. Eberts: Yes.

Mr. Callahan: If they were to receive advice of a different nature, as can often happen with lawyers having two opinions on a particular item, I gather you made them aware of the fact that they would be governed by what Blenus Wright said.

Ms. Eberts: Yes. In the case of Mr. Fontaine, for example, I did arrange a meeting with Mr. Gagné and Mr. Wright because towards the latter part of the transition phase I was trying to introduce to Mr. Wright the people who were most likely to have need to discuss with him particular problems. I would try to make it clear to them that the authoritative statement about what was correct or what was within the guidelines would come from Mr. Wright and not from me.

Mr. Callahan: The reason I asked is that earlier on I thought you had said that under the old Davis guidelines, if a minister of the crown held shares in a company and this matter came before cabinet, the minister was not allowed to declare his interest, remove himself from cabinet and have another minister decide the issue.

I would like to read something; I did not have Hansard then. It is page M-15 and it is what I thought it was. Mr. O'Connor was questioning Blenus Wright about the Golden Tiger shares:

"Mr. O'Connor: What would your advice have been if he still owned them," referring to Golden Tiger.

"Mr. Wright: I would have proceeded further to determine what their status was and why they had not been disclosed.



'Mr. O'Connor: If you had found, as the fact was, that they were mining shares, that he was the Minister of Northern Development and Mines and that the company was receiving grants from the government, what would your advice have been?

'Mr. Wright: I would have pointed to the guidelines, which indicate that when a minister has a beneficial interest in a matter that comes before his own ministry and involves a discretion in government, he is to advise so another minister can be appointed to deal with that issue.

'Mr. O'Connor: Your advice then would not have been to get rid of the shares quickly? You did not think that was necessary in the circumstances?

'Mr. Wright: Not in the circumstances, because the guidelines specifically provide for that eventuality.

'Mr. O'Connor: The amended guidelines.

'Mr. Wright: No. Even the previous guidelines.

'Mr. O'Connor: The previous guidelines would have allowed him to hold on to the Golden Tiger shares?

'Mr. Wright: The previous guidelines were exactly the same. If a matter in which a minister had a beneficial interest came before the ministry in which he was the minister, he was to advise the Premier's office and another minister would be appointed to deal with that particular issue."

Mr. O'Connor asked a further question: "I am back again to your letter of September 23, where there were certain time frames given to certain things, is that correct?

"Mr. Wright: That is correct."

I am going to jump down a bit because the rest of it is clarified, I think. I asked him a question: "Just a clarification on that, Mr. Wright. Was it your responsibility to see they were tabled?

"Mr. Wright: Yes.

'Mr. O'Connor: Until the new guidelines were in place and until you had written your letter of September 23, is it your opinion that the ministers were bound by the previous guidelines?

'Mr. Wright: I had assumed they were, yes.

'Mr. O'Connor: Was there any discussion about that with Ms. Eberts or anybody else?

'Mr. Wright: No, not to my knowledge.

'Mr. O'Connor: It was not your advice to them then that, 'Until we revamp these guidelines, you have to obey the old ones.'

'Mr. Wright: It was my view that those were the ones that were in existence and, until changed, they governed."



I asked a further question: "A further supplementary."

Mr. Chairman: Are you going to read the whole day's Hansard?

Mr. Callahan: No, but it is relevant: "A further supplementary. I just want to clarify something Mr. Wright said. I gather that under the Davis guidelines, if a cabinet minister had held a beneficial interest either through a corporation or whatever in a particular commodity or business that had an effect, directly or indirectly, on his ministry, it was permissible that he continue to have those, and all that would happen would be that another minister would be asked to make decisions with reference to whatever that benefit might be?" Mr. Wright's answer was, "That is right."

"Mr. Callahan: That was under the Davis guidelines?"

"Mr. Wright: Yes."

"Mr. Callahan: That continued under the Peterson guidelines?"

"Mr. Wright: Yes."

5 p.m.

I suggest that Ms. Eberts indicated she gave certain advice to Mr. Fontaine, the ultimate advice was to be that of Blenus Wright. You can see from the questions and answers that were given that Mr. Wright may well have had a different view, as indicated by Ms. Eberts, as to the Davis guidelines and the position of the minister. Having read those questions, would you agree that Mr. Wright has a different opinion than you did as to the minister's position?

Ms. Eberts: There are a couple of things going on here; one is the prohibition in the Davis guidelines, which is somewhat tempered in the Peterson guidelines, against having shares in a private company that has contracts with the government. That is one aspect of the guidelines. The other aspect of the guidelines is almost a basket clause. It says if you have a personal beneficial interest--and I would read into that, in brackets, that is not covered by anything else here--then you should not have dealings with that interest in your ministry.

What Mr. Wright may have been driving at--and I do not like to speculate, but it is one way of putting these two pieces together--is to say, "Okay, there is the prohibition against being in a private company that has contracts with the government." We assume that ministers have a certain time within which they have to put their interests into a blind trust, divest, or whatever. To be on the safe side, you could probably say, "In the meantime, you know that you have to abide by this aspect of the guideline that deals with personal beneficial interest, so do not have any dealings with that corporation in your ministry." However, I do not think that is the final answer. I would not say that.

Mr. Callahan: But is it not equally as explainable that you, having indicated to the minister, "Here is what I think and here is what you should do," and you also told him in your letter that new guidelines were being formulated and that he would be notified as to those guidelines, that may very well account for the delay and then the delay being enhanced by the factor that Blenus Wright was to be the final statement from the mountain as to what

you do with your particular shares? It would also probably give a reasonable result as to why Mr. Fontaine came back to you in December for a blind trust, because at that point he would have had an opportunity to be further advised.

Ms. Eberts: I think the Golden Tiger shares were shares on a public market, and the Davis guidelines and the Peterson guidelines are identical in their provisions with respect to public shares. They say, "Put them in a blind trust or sell them," and the understanding with respect to Golden Tiger is that the method of compliance that was discussed with Mr. Fontaine and that he had agreed to follow was to sell, and it was fairly clear fairly early on that he was going to do that.

The other aspect of the guidelines dealing with shares in private corporations is the one that affects forest management. That had not really ripened up as a legal problem because there was an old cutting licence in place, although I did tell him not to have any dealings with that cutting licence because of the sensibility to this idea of the personal beneficial interest.

Mr. Callahan: Finally, I gather that Mr. Fontaine, after he had met with you, you had written this letter and then he had gone to see Blenus Wright, did not come back to you again until the arranging of the trust agreement. He did not come back to you and say, "Blenus Wright says this and you have said that." You never had an opportunity to further advise him with reference to what Blenus Wright may have told him, which may have been different from what you had told him?

Mr. O'Connor: He never talked to Wright.

Mr. Callahan: Mr. Wright never met with Mr. Fontaine?

Mr. O'Connor: No.

Ms. Eberts: As I understand it, there was some correspondence between Mr. Wright and Mr. Héroux from Mr. Fontaine's office with respect to the filing that Mr. Fontaine had made, because later on I was given a copy of the letter Mr. Héroux had sent to Blenus Wright setting out the shareholdings in the corporations. I assumed that the dealings with Mr. Wright had all gone through Mr. Héroux.

Mr. Callahan: We do not know, but I am sure Blenus Wright must have spoken to Mr. Fontaine through his lawyer, and it may well be that the information given to him was different to the view that was taken by another lawyer. The questions and answers that were given by Mr. Wright certainly place me in a quandary as to whether there is a difference in the approach to the guidelines by Blenus Wright, who, it has been indicated by Ms. Eberts, was the person who was responsible for all of this throughout the Davis years and presumably throughout the early years and even now in terms of the Peterson government. Those are my questions.

Mr. Sterling: Mr. Callahan continues to spawn the analogy between the dealing with the Hearst Forest Management Inc. and the shares held thereunder and the shares of Golden Tiger, which is a public company. He has taken Mr. Wright's interpretation of those public shares and a program that was in place to deal with Golden Tiger and any other mining company and made the analogy to the privately held company with a specific contract dealing with that company.



There are two significant differences in the two situations. I think you referred to Mr. Wright. When you led in, you talked about Golden Tiger shares, and that is what he was giving in his comparison of the Davis guidelines and the Peterson guidelines. I agree with him that they are the same in dealing with those two instances.

I have some questions.

Mr. Chairman: I have been trying to get you on all afternoon. It is your turn now.

Mr. Sterling: At any time, Ms. Eberts, did you ever discuss with the Premier Mr. Fontaine's holdings or discussions you had with Mr. Fontaine? Have you ever discussed those with Mr. Peterson?

Ms. Eberts: As part of the cabinet-making exercise, I talked with Mr. Ezrin. Thereafter, there was a very brief meeting with the Premier that was not carried on at any level of detail. I dealt primarily with Mr. Ezrin about the vetting process.

Mr. Sterling: In talking to the public accounts committee--and I will quote you from it--when you were talking about the forms we saw here, I understand you said: "I had them fill out forms and I checked them out as an interim measure. This set of materials, the forms, was distributed to members of the caucus at the time when Mr. Peterson was considering whom he should put in his cabinet. On the basis of these forms, I was able to say whether there were any problems with any particular person in a particular ministry because of land holdings or whatever."

That sounds to me as though you were saying to the public accounts committee that you did have a very important part in vetting the affairs of each and every member of caucus who was being considered for cabinet.

Ms. Eberts: I told you in some detail today the process we followed in the sense that I was shown this list and offered a comment, yes, no, whatever, to Mr. Ezrin. It was with Mr. Ezrin I had those discussions in the first instance.

Mr. Sterling: You met with Mr. Ezrin some time in July?

Ms. Eberts: Whenever the cabinet-making process was going on. I do not have the date.

Mr. Sterling: You met with him privately about the making of the cabinet?

Ms. Eberts: That is right. After the meeting with Mr. Ezrin, I went in for a short discussion with the Premier, but it was not at a level of detail.

Mr. Sterling: Did you talk about Mr. Fontaine at all with the Premier?

Ms. Eberts: I do not recall whether I talked about him in particular. The meeting was a reasonably short one. The business aspect of this process was done with Mr. Ezrin; it was not done with the Premier. Whatever discussions I had with the Premier, I certainly had with the



understanding in mind that Mr. Ezrin had been his deputy in this matter and that nuts and bolts had been discussed by then with Mr. Ezrin.

Mr. Sterling: You discussed the Golden Tiger shares and the United Sawmill interests with Mr. Ezrin?

5:10 p.m.

Ms. Eberts: No, that is sort of reconstructing. I told you I do not have a specific recollection about the details of my discussion with Mr. Ezrin. I looked at this letter we found this afternoon, and I can suggest to you the discussion about the Golden Tiger shares would have been that he has them and he has told them he has undertaken to sell them. That was his plan for complying with the guidelines. That was the news about the Golden Tigers.

I can recall that because of the forest management agreement and because it was dealt with by the Ministry of Natural Resources, it was considered that ministry would have a lot of problems or Mr. Fontaine would have problems going into that ministry. That was really the major--

Mr. Sterling: Discussion between Mr. Ezrin and you.

Ms. Eberts: --not problem or discussion, but the big issue was the forest management, not being in Natural Resources. The news about the Golden Tigers really was news of a problem that by that time had been matched with a solution. He was going to sell them.

Mr. Sterling: So the forest management agreement, this discussion with Mr. Ezrin in dealing with it probably would have come some time during July, since that letter was dated July 9.

Ms. Eberts: No. It was done during the cabinet-making process.

Mr. Sterling: It was prior to that?

Ms. Eberts: Yes. This July 9 letter was a report at the end of a process that had been going on for some time.

Mr. Sterling: When you met with Mr. Peterson, if you cannot recall whether you discussed Mr. Fontaine's matter, did you discuss the matter of the guidelines in general with Mr. Peterson?

Ms. Eberts: It was a very brief meeting, and if we discussed it all, it was just for me to say, "You will be getting a memo about what changes we propose," because that certainly was not the top concern at that particular time. It was more down the road, to get them into some sort of shape for the interim.

Mr. Sterling: Do you know whether Mr. Ezrin conveyed your information about the FMA to Mr. Peterson?

Ms. Eberts: I do not have any specific information on it. All I can say is that, from my point of view, I was talking to Mr. Ezrin as Mr. Peterson's agent. My understanding was that he was the one who was dealing with that and that in order to keep Mr. Peterson from having to deal with every bit of detail himself, some of it had been delegated to Mr. Ezrin and would be reported back to Mr. Peterson as Mr. Ezrin saw fit.

Mr. Sterling: Other than this letter in a sealed envelope, was any kind of written document given to Mr. Ezrin, to whom you were reporting?

Ms. Eberts: No. I did not submit a status report or anything like that on ministers, proposed ministers or members of cabinet. It was an oral discussion.

Mr. Sterling: How would Mr. Ezrin keep track of what was going on? He knew there were problems with Mr. Fontaine in particular.

Ms. Eberts: That was not the process, though. When we met, we had before us a piece of paper with the suggestions for the people and for the portfolios and it was just a process of asking, "Are they okay there?" The news that was given to Mr. Ezrin was the news as it related to those particular items on his list. There was no overall report. This was not the sort of report that would enable him to act as a policeman any more than I was to act as a policeman. It was a report aimed at looking at the proposed people in the cabinet.

Mr. Sterling: If you were basically there to protect them in terms of, as you indicate in your July 9 letter, there is a problem with the existing guidelines regardless of what ministry René Fontaine might have been assigned, why would you not mention that particular problem to Mr. Ezrin?

Ms. Eberts: Which problem are you talking about now?

Mr. Sterling: About the proposed FMA.

Ms. Eberts: We did discuss the FMA. I suggested, or it was suggested in conversation, that he should not be in the Ministry of Natural Resources because of the FMA. I cannot recall at this point exactly what the discussion was, but they clearly were aware of the FMA and they knew it was an issue.

Mr. Sterling: You say in your letter to Mr. Fontaine on July 9, "I am proposing to the Premier that the guidelines be changed." Did you discuss that with Mr. Ezrin as well?

Ms. Eberts: Not at the time we had the so-called cabinet-making discussion. From time to time, as part of the transition process, we reported to Mr. Ezrin on how things were going, and so I did keep in touch with Mr. Ezrin about how the guidelines were coming, where we were and so on. There were periodic reports on that.

Mr. Sterling: Those were written reports?

Ms. Eberts: No. For the most part, they were oral reports.

Mr. Sterling: There were some written reports?

Ms. Eberts: I am just thinking now of the material I put into the standing committee on public accounts. The report to Mr. Ezrin that was in writing was in the late summer, I think, when I sent him a memo proposing what should be the changes to the guidelines. I prepared several memos for the transition team about the guidelines to assist us in our discussions, but they were not provided to Mr. Ezrin; they were just for ourselves. He got the end product, and from time to time in the meantime he had oral reports about how we were coming along.



Mr. Sterling: I would like to jump. You indicated that you drew up the trust agreement for Mr. Fontaine.

Ms. Eberts: Yes.

Mr. Sterling: Were you aware of the agency agreement between Mr. Cloutier and the trust company?

Ms. Eberts: The trust company told me they wanted to have someone who was familiar with this business, who could assist them in the management of the business. They were unwilling to take on a forest business, because they do not run that sort of thing. I asked Mr. Gagné whether there was anyone who could act as an adviser for the trust company. He provided the name of Mr. Cloutier, and then I passed that on to the trust company. It was arranged that Mr. Cloutier would execute an undertaking saying that he would not divulge to the Fontaines any information he learned in the course of his duties. That is the information I have about that agreement. I never saw any particular agency agreement between the company and Mr. Cloutier.

Mr. Sterling: I do not think there was an agency agreement. I think there was just a declaration signed or an affidavit signed.

Ms. Eberts: I prepared that declaration following the arrangement we had made.

Mr. Sterling: I guess the problem is I have concerns whether this is a true blind trust or not. Mr. Cloutier is a longtime business associate of Mr. Fontaine--I do not know whether you are aware of that--and was appointed to the Northern Ontario Development Corp. Mr. Fontaine's ministry has a little bit of something to say about that whole matter. Do you consider that to be an arm's-length relationship between the running of the interests of Fontaine Holdings Ltd. and Mr. Fontaine? By the very nature of their government business, they are in constant communication with each other.

Ms. Eberts: That declaration was designed to bring home to Mr. Cloutier his legal obligations in the circumstances. We can try to make things as arm's length or as proper as we can, and that is what that declaration was intended to do. I cannot say whether Mr. Cloutier intended, when he signed it, to abide by it. I have to assume that when somebody swears an affidavit or makes a declaration such as that, he knows he is doing something solemn at law and intends to agree with it. I do not know Mr. Cloutier, but I have to sort of--I will not say "take it on faith"--but take people as decent human beings, and when they swear something, they are going to try to comply with it.

Mr. Sterling: One thing I am having a hard time figuring out is who actually filled out this form for René Fontaine. Mr. Fontaine has claimed he did not do it. Mr. Gagné, when we asked whether he filled it out for Mr. Fontaine, claimed he did not do it; he claimed you did it. You claimed this afternoon that you did not do it. Do you know who really filled out this form for Mr. Fontaine?

Ms. Eberts: No, I have no idea. I had always assumed it was Mr. Gagné.

Mr. Sterling: I got from the questions you were asked by Mr. Treleaven that you really did not advise Mr. Fontaine or anybody else on the implications of the Legislative Assembly Act and their legality as to whether he could sit as a member of the Legislature or not generally.

Ms. Eberts: I talked to them in quite general terms about that.

Mr. Sterling: In Mr. Fontaine's statement, when he appeared before of the committee on July 23--this is in the written statement he had prepared--he said: "Towards the end of November, Mr. Gagné received a telephone call from Ms. Eberts advising that I should sell my shares in Golden Tiger. Until then, I had not dealt with any of my assets, as Mr. Gagné had suggested that I 'stay away from them' until a decision had been made on which of them should be sold and which should be put in the blind trust."

Further down in the statement, on page M-6 of Hansard, he says: "In summary then: (1) The Golden Tiger shares which I and my family own, except for the escrow ones which I did not remember at the time, were disclosed as early as July 1985. (2) As soon as I was advised to sell my Golden Tiger shares, I did so."

Do you agree with what Mr. Fontaine has told this committee?

Ms. Eberts: I sent that letter in July saying, "Sell the Golden Tiger shares." I do not know whether he understood it or what. I know I told him again in November to sell them when they contacted me about doing the trust.

Mr. O'Connor: You told him before the letter too.

Mr. Chairman: We thank you very much for appearing in front of us this afternoon and providing us with the information.

The committee will stand adjourned until tomorrow morning at 10 with Mr. Markus and Mr. Tworzyanski.

The committee adjourned at 5:23 p.m.



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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

TUESDAY, AUGUST 19, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Grier, R. A. (Lakeshore NDP) for Mr. Martel

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Also taking part:

Wiseman, D. J. (Lanark PC)

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Natural Resources:

Markus, E., Director, Timber Sales, Forest Resources Group

Tworzyanski, T. J., Acting Supervisor, Management Planning Section,  
Timber Sales, Forest Resources Group



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Tuesday, August 19, 1986

The committee met at 10:13 a.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: If it is agreeable to you, I would like to get started. First, I have an announcement. Next Wednesday, August 27, at 10:30 in the morning in room 230, the steering committee will meet to go through the applications for the position of Clerk. All members are welcome to attend. As agreed, the process will be that the steering committee will recommend a short list of people to be interviewed by the full committee in the first week of September. Following that, a decision will be made on the position.

I remind you that some questions are still being raised about the salary, status and tenure for the position of Clerk. We will try to address those matters at the same time. A motion will be put at some point, which will say this person is appointed Clerk at this status, at this salary level, under these conditions. To do that may involve a slight alteration to the Legislative Assembly Act.

Mr. Treleaven: Where is the meeting?

Mr. Chairman: Room 230.

Mr. Morin: This afternoon?

Mr. Chairman: No, a week from Wednesday, August 27, at 10:30 in the morning in room 230.

Mr. Morin: You said something about screening.

Mr. Chairman: The steering committee essentially will screen the applications and put forward a list of people to be interviewed by the full committee.

Before we begin this morning, the member for Lanark (Mr. Wiseman) is in attendance and wants to make a statement. It is a little unusual, but it is in order and I am going to let him proceed now.

Mr. Wiseman: I was in hospital last week and did not know until late yesterday afternoon that on page 33 of last Thursday's morning sitting, about half way down the page, Mr. Mancini said, "My understanding is that some years ago the member for Lanark served as parliamentary assistant to the Minister of Health. At that time, there were some hospital closings and closings of chronic care beds in certain institutions across the province. It was noted that Mr. Wiseman had a family interest in a private hospital, chronic care institution, and that the ministry had allocated beds to that institution."

On behalf of my wife and myself, my wife had that institution since early 1952, long before I became a member and long before the Ontario health

insurance plan came in. Just to set the record straight, at that time my wife had 21 beds. When OHIP came in, it was reduced to 17 beds. It never went to more than 17 beds until the time she sold it about four or five years ago. It irked both me and my wife that someone would make such a false statement saying that I gave special treatment to my wife when I was parliamentary assistant. That is not true. For my sake, for my wife's sake and for anyone who reads Hansard in the future, I wanted to correct that.

I have asked Mr. Mancini to read this. I phoned yesterday, I phoned this morning and he says he is going to check with the Ministry of Health and probably will make a statement tomorrow on whether he thinks I am right or wrong. I know he will find the information I have given you this morning is true. I appreciate your giving me the time to correct the record because one has his integrity to stand behind in this business and if one does not have that, one does not have very much. Thank you very much.

Mr. Chairman: Okay.

Mr. Mancini: If I may comment on the point of order that was just raised by the member for Lanark--

Mr. Chairman: Let me clarify, before you begin.

Mr. Mancini: It is not going to be a long, political deal.

Mr. Chairman: Just before you get under way. It was not a point of order. The member came to the committee; he asked to make a statement. He was allowed to make that statement. That is what it is. If you want to respond to it--

Mr. Mancini: It would be my point of order then, Mr. Chairman. I want to say that it is true the member for Lanark did call yesterday. I was not in Toronto. We spoke this morning, and he brought this to my attention. He showed Hansard to me this morning, and I saw what he considers to be the offending statement. I have promised to go over Hansard in depth as to what I said. I am going to review the Hansard of 1976 that I was using to make sure there was no misinterpretation on my part. I will be checking with some ministry officials in the Ministry of Health to see exactly what happened. If I said something that was incorrect, I will certainly correct the record. I have no qualms about that.

Members will recall that I made those comments in response to the comments by Mr. Sterling with regard to section 10 of the Legislative Assembly Act. He kept bringing up the forest management agreement and whether or not a person could hold a seat in a legislature if he was a principal, a minor or major shareholder with a company that was doing business with the government. If it had not been for that, the whole matter probably would never have come up. However, I want to assure the committee members that if I said anything that is factually incorrect, it will be factually corrected.

Mr. Chairman: Very good. We have that assurance. Thank you. That is our quota of hurt feelings for today. We will now proceed with the business.

We have two witnesses before us this morning. Mr. Markus is director of timber sales for the forest resources branch of the Ministry of Natural Resources and Mr. Tworzyanski is the acting supervisor of the management planning section. Mr. Tworzyanski was sworn in previously and Mr. Markus will



now be sworn in as a witness. He has asked that Ken Cleary, the superintendent of the wood allocation section, be available so that he can consult with him if there are some matters that members want to raise. I thought that was a reasonable thing to do, so he will not be appearing as a witness but will be available to provide him with some backup information. Mr. Markus and Mr. Tworzyanski, will you come forward?

Edward Markus sworn.

Mr. Chairman: Gentlemen, will you come to the table? Do you have a statement you want to make? No. Then we can proceed with questions.

Mr. O'Connor: Thank you for your attendance here this morning, the second time for two of you at least. Perhaps the first thing I would like to get more or less cleared up is the apparent difference in previous testimony between Mr. Markus and Mr. Fontaine in regard to the general procedure involved in the issuing of timber licences and the procedure followed by the ministry, the searches done, that sort of thing, and particularly the question of the defunct companies; that is, the companies that in April 1981 amalgamated into one company, United Sawmill. Thereafter, as the record indicates, they continued to apply for and receive timber licences.

Mr. Markus, my interpretation of your previous evidence is that it would be difficult for that to occur. I think you told us that one of the things you do prior to issuing a timber licence is to check the corporate records to ascertain that the company, in fact, exists. Mr. Fontaine--you may now have read Hansard; perhaps we all have--indicated quite the reverse, that the ministry was encouraging him to apply in those names. It was simpler to do so because those companies had applied for and received licences over a period of time and to change the records and the name was an inconvenience that nobody needed. Can you tell us what procedure is followed, whether it is still followed, when it changed and how it came about?

Mr. Markus: The checking of the licensee's name and legality, existence in law, began early this year, January 1986, and we have done it for every new licence as it passed through our licensing process. We did not go back and check the records of the existing licences. That is when checking with the companies branch began on a new licence issue basis.

Prior to that, we would have checked only by exception, if we had some concern or if we realized there could be some question about the licensee being a legal entity. Before January 1986, we would have rarely done that and only when we were aware of a possible change.

Mr. O'Connor: If you had become aware of a nonexistent company applying for a licence, I presume you would not have issued the licence.

Mr. Markus: Yes. We would have contacted them and asked them to give us a name that was legal to issue the licence to.

Mr. O'Connor: That seems to belie Mr. Fontaine's evidence somewhat. He said he was being actively encouraged by the ministry to use the old names--thus implying the ministry knew they were defunct companies--because licences had been issued in those names for a long time and it was simply easier to do so. Is that correct?



Mr. Markus: To the best of my recollection and discussion with staff and head office, we never received a request to change the names of the defunct companies to United Sawmill Ltd.

Mr. Sterling: You had no knowledge that they were were defunct?

Mr. Markus: No.

Mr. O'Connor: Who communicated for Mr. Fontaine's companies with the ministry in dealing with these matters? Would it have been Mr. Levesque?

Mr. Markus: It could have been a number of people associated with those companies in the field. Be it a new licence or a renewal of an existing one, the process starts in the field with the district manager's report. I believe you have copies of those for the various licences you asked for.

Mr. O'Connor: Most of the applications seem to have been made by Mr. Levesque. He seems to have been the administrative guy involved in the process.

Mr. Markus: I think Mr. Cloutier's name appears.

Mr. O'Connor: Cloutier--I am sorry--Roland Cloutier. You are correct. I am again curious as to Mr. Fontaine's evidence that he was actively encouraged to do this. You deny that the ministry would do that and you had no knowledge of these comments?

Mr. Markus: I am speaking of myself and the people in head office. We were never approached to change those names.

Mr. O'Connor: Okay. Who would it be that Mr. Cloutier would have been dealing with?

Mr. Markus: He may have been dealing with local people--the timber supervisor, a district manager.

Mr. O'Connor: Have you ever had communication or instructions to them as to how to handle these things?

Mr. Markus: They are aware that a licence should be issued to a legal entity. They usually depend on us to verify that, though, and any time they ask, we will verify it.

Mr. O'Connor: Who is the district manager in Hearst?

Mr. Markus: The present one is Bill Therriault. Prior to him, from 1973 to about a year ago, it was Cliff Emblin.

Mr. O'Connor: Would they have been the men whom Mr. Cloutier dealt with in the--

Mr. Markus: It may have been them. It may have been the timber supervisor.

Mr. O'Connor: Who was that?

Mr. Markus: He has just left to go to Cochrane, but the one who was there for about four or five years, was Don Stillar. Prior to him, it was Trevor Isherwood.

Mr. O'Connor: It came to your attention, you indicated, earlier this year that these nonexistent companies were being--

Mr. Sterling: Mr. Chairman, just on that, do the regions or the areas keep their own set of records regarding licences and that kind of thing?

Mr. Markus: They would keep copies of the district manager's report and any correspondence, yes.

Mr. Sterling: They might have correspondence that you might not have here?

Mr. Markus: Yes.

Mr. O'Connor: Could we get a hold of that perhaps? Could those records be made available to us, the district and the regional records for United Sawmill and the Hearst area?

Mr. Markus: You will have to be very specific now. You want the licence files for what companies or licences. Is that what you are asking for, sir?

Mr. O'Connor: We would like, I think, eventually the general files with respect to the seven or eight companies that Mr. Fontaine controlled, not only with regard to licences but with regard to their doing business in that area.

Mr. Markus: Yes.

Mr. O'Connor: Could we get those?

Mr. Markus: As long as we have an appropriate amount of time to copy, etc. They will be in the field.

Mr. O'Connor: I know. It could be voluminous. As I understand it, there are two sets of records up north. One is the district records. Is that correct?

Mr. Markus: Yes.

Mr. O'Connor: And one is the regional records, and they are not integrated. The two may be totally separate from each other and they do not deal with the same--

Mr. Markus: There will be similar copies in both files and there will be some where they do not exist on both files.

Mr. O'Connor: Okay. It came to your attention, you said, earlier this year that these companies had been applying for licences and they did not exist.

Mr. Markus: Yes.

Mr. O'Connor: How did that come to your attention? Did that come from the field?

Mr. Markus: No, we searched. We went to the companies branch to verify the spelling of United Sawmill Ltd. Believe it or not, we were not sure

whether it was Sawmill or Sawmills. Because we wanted the proper name, we sent one of our clerks to the company branch, as we do when we have this. That is where we found that these companies did not exist and were amalgamated previously.

Mr. O'Connor: It did not come about as a result of some inquiries in this regard from our party?

Mr. Markus: I do not think so, no.

Mr. Chairman: Could I interrupt for a moment? You did check the legal status of this. It is a relatively common business practice when a takeover occurs to continue in business, like using a family name, as one example. But from your legal advisers you were told that was not what was occurring there, that in fact you were giving a licence to something that was not a legal entity.

Mr. Markus: We went to the companies branch to check the legal existence of United Sawmill Ltd. for spelling purposes, as I have indicated. When we checked that name at the companies branch, we found a document and got a copy of that document that indicated Arrow, Polar and Mooseland had been amalgamated into United.

Mr. Chairman: So at that point you changed your practice and you changed what had been standard procedure then?

Mr. Markus: Yes, around that time.

10:30 a.m.

Mr. Chairman: Can you provide me with a little help? My earlier question is one that is fairly common in business; that is, when there is a takeover, it is reasonably common practice to continue operation using the previous name. Is that not legal?

Mr. Markus: Yes, if there is a share acquisition. If I buy out your lumber company, and it is XY Co. Ltd., I can acquire that by buying out your shares if it is share structured. You can continue to operate under that name even with a licence issued to it. There is nothing illegal about that.

Mr. Chairman: From your advisers, then, this was a change in practice within the ministry to make it more proper.

Mr. Markus: We thought it appropriate to check the names more closely.

Mr. Treleaven: Mr. Chairman, just in explanation, there is a total difference between a share buyout of a corporation where that corporation remains in existence and an amalgamation of a corporation where that corporation does not remain in existence.

Mr. Chairman: That may be. I am just checking out the business practices. It is relatively common in the business world to continue to use a name of a company that may or may not exist any more.

Mr. Treleaven: No, it is not at all, not for an amalgamation. An amalgamation is an entirely different legal concept from any share acquisitions or asset purchases and so on.



Mr. Chairman: I can name a number of companies where they continue to use the family name, as an example, or a business that is amalgamated--

Mr. Treleaven: If it was a name that was purchased, the name only.

Mr. Chairman: Yes. They purchased the name.

Mr. Treleaven: That is not the situation here. Here, there are amalgamations.

Mr. Sterling: That happens quite often. You will find there is also a registry that such a company is carrying on business under the name of the Fontaine Family Ltd. or whatever.

Mr. Treleaven: No, Fontaine Family. You cannot use the "Ltd."

Mr. Sterling: Yes. They would not allow them to use the "Ltd." under that particular act. That may be what you are referring to. In a legal sense, a company is a legal entity and therefore, if you want to contract with somebody for something or create a right or an obligation, it is important for you to get the proper legal entity on that piece of paper or whatever for you to enforce your obligations or whatever might have been. If you have a licence or a right to do something to a nonentity, then in effect the paper is not worth anything.

Mr. Chairman: I am familiar with a number of businesses that have been taken over, some amalgamated, and yet they continue to operate using the family name from the public's point of view. With most of the ones I am familiar with, some part of the agreement allows them to continue the use of that name.

Mr. Treleaven: Mr. Chairman, you are confusing the technical letters of amalgamation. Articles of amalgamation are a specific legal thing. It is not the general colloquial amalgamation if David and I have a couple of sole proprietorships and we amalgamate in the layman's term. We join our two businesses together. That is a layman's term.

Articles of amalgamation, however, are articles such as incorporation where the pre-amalgamation corporations join and they cease to have their individual corporate existence. They no longer individually exist, nor can they contract or use that name. They do not exist. It is as if a human person has died. They can no longer contract in that name.

Sometimes the newly amalgamated corporation may take over the name of one of the amalgamating corporations, but you are not carrying on. The new name can be different, or it can be a new one, but the old one must cease. It is a total death, and a new one carries on.

Mr. Chairman: It is simply the use of the name that is at question here and whether that has any legal status.

Mr. Sterling: I put forward the proposition that it would be the same as me going in and signing a contract using your name on the contract.

Mr. Chairman: Correct.

Mr. Sterling: That is the analogy I would use.

Mr. Chairman: I have the three lawyers giving me three different sets of advice here.

Mr. Treleaven: No. We are all giving you the same advice.

Mr. Chairman: I think most members, for example, would be familiar with a business from which they bought things for years and years, and then all of a sudden it would turn up on your Chargex under a different name. You walked into the same store and thought you were dealing with the same people, but there had been a change in the status.

Mr. Treleaven: With respect, you are totally mixing contexts here.

Mr. Chairman: No. I am not.

Mr. Treleaven: Legalities.

Mr. Chairman: With respect, I may be mixing legalities but I am not mixing context. Go ahead.

Mr. O'Connor: Shall I carry on?

Mr. Chairman: Yes.

Mr. O'Connor: Regardless of what was discussed here, the companies for which licences have been applied and granted did not exist at the time they applied for and were granted those licences. Were any steps taken by the ministry, other than to prevent that happening in the future, with respect to what had happened in the past, in that you had granted these licences to nonexistent corporations? They presumably made money on them. There would be no way they could file corporation tax returns, because they did not exist.

I wonder whether the ministry looked into that and determined what happened to the public moneys that were given to them as a result of the ministry having been duped into granting licences to corporations that did not exist. Were any steps taken along those lines?

Mr. Markus: I will try to take them on one at a time. The minute we identified the fact that these companies no longer existed, we requested the surrender of those licence documents, to be replaced by licences that were issued in the name of United Sawmill Ltd. to rectify that situation.

As far as payment of income tax is concerned, I am not the person to answer that question. Very obviously, those companies--whatever you want to call them--cut timber and paid their dues provided by the terms and conditions of the licence.

Mr. O'Connor: That is my question. As far as you are concerned, they did, and they quite correctly--

Mr. Markus: I am sorry; one more point. You mentioned something about the government giving them money. We provided no funding to those licences.

Mr. O'Connor: All right; I stand corrected on that.

Mr. Mancini: So you were not duped then, as Mr. O'Connor said.



Mr. Markus: I am not choosing his words.

Mr. Mancini: But you were not duped.

Mr. O'Connor: I will stick by those words. You were duped into granting licences to companies that did not exist. You say you were not encouraging them to make the application. The information necessary to grant the licences must have come from them. They must have been making representations that Polar existed, Mooseland existed and so forth. My question was that, as far as your ministry is concerned, there was no follow-up other than to make sure this did not happen again.

Mr. Markus: And issuing the licences in the name--

Mr. O'Connor: In the new name, yes, and that ensures it will not happen again--to these people, in any event.

I guess I would find the answer to my other question through the Ministry of Revenue to see whether corporation tax forms were filed and taxes were paid in the names of these companies, which did not exist. That would have been an impossibility, I would think, because their records would show that they did not exist.

However, if I could move on to the effect of the granting of such licences--in other words, the number of cords that were cut, the amount of wood that was cut by them and the totals over the years--as a result of your providing us with the full files on these, at one point, up to eight companies, we have done a graph and a summary of the number of cords cut by each company. I do not know whether you have done that or whether you have the records here to confirm this.

What I might do to assist is to pass out this summary and ask you to look at it, along with the graph, and tell us whether your records confirm that those are the numbers of cords cut and that the totals are correct for the years indicated. Are you at this point, with what you have before you, able to assist us in that regard?

Mr. Markus: No. None of us here could verify the amounts cut at this time at this table. We do have records back in our office.

Mr. O'Connor: I do not want to go through the laborious process of putting each licence to you and asking you to add and all that, because we have done the work. What we might do, Mr. Chairman, is ask him to take this and, to save time, some several days from now, when they have checked those records, confirm that these figures are correct or incorrect.

Mr. Mancini: I have a couple of points. First of all--

Mr. Warner: Can he share this valuable information with us?

Mr. Markus: We can verify the amount of crown wood cut under the licences. The wood that they would purchase from somewhere else, we would have it.

Mr. O'Connor: Yes. That is one of the things I was going to ask you too. The figures we have shown are the allowable cuts according to the licences and not necessarily what was actually cut. Perhaps you could assist us in that regard.



Mr. Chairman: Mr. Mancini, you had a point. I am going to reserve judgement on this for a minute, if you want to argue this.

10:40 a.m.

Mr. Mancini: I am finding it increasingly difficult to fit this in and to see what it has to do with the matter of Mr. Fontaine and why his affairs were sent to this committee. It is obvious from testimony we have received in the past from yourselves and from the way the procedure works that these licences were given to these companies, which were at one time, I guess--we have three lawyers here, so I had better be careful--legally operational. I guess from their point of view they are no longer legally operational.

If I understand it correctly, Mr. Markus, all these licences were then turned over to United Sawmill. There was no licence that was not turned over to United Sawmill. Is that correct?

Mr. Markus: The licences in effect were made null and void, and a new licence was issued to United. It just turned over.

Mr. Mancini: That is my point. The licences were turned over and, because of that, I am finding it increasingly more difficult to see what this has to do with our inquiries. It is very nice that we now have a compiled list of how many cords could be cut and that we are going to have to find out many cords were cut. Where we go from there, I am not sure. I am not sure where we are going and why we are going in that direction. If I can be helped, it might serve a useful purpose.

Mr. Chairman: I am going to ask you to help me in this regard. I have not seen the documents you have compiled. I am at a complete loss to establish any relevance for them. I am going to ask you to make the argument for what you think is relevant and then--this is a little unusual. The problem I am having is that in the middle of the process of questioning a witness, a member of the committee has introduced some pieces of paper and asked witnesses to verify. That is an unusual procedure.

Mr. O'Connor: Mr. Chairman, the alternative to that--

Mr. Chairman: Hold it a minute.

Mr. O'Connor: --is to have them do it this way.

Mr. Chairman: You can interrupt me and lose your argument if you want, or you can hear me out, and then I will give you your chance to state your case.

It is a little unusual. I have been here 11 years. I have never seen a member produce documents in the middle of questioning a witness and then ask the witness to verify. I can entertain the concept. I want to hear the argument that this is relevant to what we are supposed to be doing. According to Mr. Mancini's point of order, which is a reasonably legitimate one, I would like you to entertain exactly what we have here, give me a minute to peruse it and establish for me the relevance of it all. If you do that, you will assist me.

Mr. O'Connor: On your point first, Mr. Chairman, the witnesses were asked in advance and did produce for us all the timber licences and files for

the eight companies we are talking about: Polar, United Sawmill, etc. It is a quite voluminous package of information and includes the follow-up reports, after cutting has been done. What we have done with these documents is we have summarized the figures extracted from all that documentation. I think having done that will save considerable time and assist the committee immeasurably if they are correct. I wanted to give the witnesses the opportunity to confirm that they are correct or incorrect.

The alternative to my introducing these documents and asking them to do that is to go laboriously through each of the pieces of paper they have produced for us and end up perhaps a day and a half from now with the same result we have before us. That has been done over many hours by members of our research staff. I think it is reasonably accurate. That is why I gave the witnesses the opportunity to confirm or not for us. If you wish to discuss that, we can.

Mr. Chairman: What I want to hear is, how is this relevant?

Mr. O'Connor: Addressing Mr. Mancini's point, I will get to this. You will see from the graph that the number of allowable cords to be cut--not cords cut, because that figure may be different--increases dramatically between April 1981 and April 1985.

Our suggestion will be that, as a result of using the multiplicity of companies rather than the one, when the investigation into this matter commenced and when the ministry corrected its records early this year, the allowable cut drops dramatically.

According to the ministry figures, under the FMA that may or may not be entered into by Hearst Forest Management, it will increase to approximately 130,500 cords, which is again a significant increase over the six-year average, as is shown on the graph, and over Mr. Fontaine's and Mr. Gagné's estimate of the number of cords involved.

There is a dramatic difference between 65,000 cords and 130,000 cords. That raises several questions: whether Mr. Fontaine was accurate in his evidence to us in that regard, and certainly that is relevant to us. It is also relevant as to why perhaps Mr. Fontaine is so anxious to be entering into an FMA. It raises the questions of his activities over the past year in that regard.

Further, the matter becomes more relevant as a result of the evidence of yesterday's witness, who produced the letter dated July 9 in which she indicates, "Any renewal of [that arrangement] timber licences" in paragraph 3, "would offend the guidelines." I am quoting from that letter. Some of these licences were renewed, according to the dates on them, after Mr. Fontaine became a minister.

Mr. Sterling: Before he put them in his blind trust.

Mr. O'Connor: And before he put them in his blind trust; in other words, in August 1985. If that is the case, and it appears to be from the records, then he is clearly in breach of those guidelines and maybe in violation of the conflict-of-interest rules. By proceeding through this, I think we are coming to a very relevant point.

Mr. Treleaven: Mr. Chairman, may I add to that? Clearly and simply, we heard from Mr. Gagné and Mr. Fontaine that no matter how many licences were



involved, the cut was a total of 65,000 cords. From the documentation that has been produced to us through the clerk, we believe it has gone up to 132,000, which is more than double 1985, and up to 130,000, close to 1986. That is a discrepancy.

Second, on the question of the multiplicity of licences, today we hear that the Ministry of Natural Resources became aware of the use of nonexistent corporations in licences in 1986 only recently. Yet Mr. Fontaine, in his testimony before the committee, stated they knew there were various places in here.

In essence, it was the ministry insisting upon it. If you look at it, Mr. Fontaine said they knew these companies no longer existed. We have a discrepancy between the ministry saying they did not know these companies did not exist and Mr. Fontaine saying they did know they did not exist and that they were insisting; they did not want to go back through orders in council, etc.

We have diametrically opposing evidence in several regards. That is why it is totally relevant. I do not understand why Mr. Mancini is having trouble. He said it is increasingly difficult to understand what it has to do with Mr. Fontaine. It is dead on. I fail to understand why Mr. Mancini is having trouble.

Mr. Chairman: Let me put it to you this way. This is not an inquiry into the practices of any of the ministries. Whether they did or did not use a proper process for the issuing of licences, whether they did or did not check out all the legal entities involved or the status of them, is somewhat irrelevant for our purposes. You have heard in testimony this morning that they have changed their practices. The reason is not much of our concern.

The part that appears to me to be relevant is what Mr. O'Connor said. He seems to be making an argument that there was a change in the amount of wood cut. My understanding is that these licences give you the authority to cut wood; it does not necessarily mean the wood was actually cut. I would have no problem with submitting these figures to the ministry and simply asking for verification of the conclusions drawn by this.

The difficulty I have, for example, is that I do not know who did this. I do not know whether they were reasonably competent in their field or whether they knew what they were doing. It is an unsigned document. I have no problem with sending the papers to the ministry and asking them to comment on it to see if they can verify that the numbers are correct and that the conclusions drawn are reasonable conclusions. If that is what you want, I do not see any difficulty.

10:50 a.m.

I am going to warn you, I have some problem seeing the relevancy of all this. Mr. O'Connor made not a bad argument that he thinks there might have been some undue influence by the minister. That is a relevant argument. Going beyond that, you are losing me. I have to tell you that now. If you are satisfied with simply tabling the documents with the committee and asking the ministry staff to review them and comment upon them, I think we can do that without any real problem. Is that good enough?

Mr. O'Connor: That is all I was asking for.



The second point I would make is that some of the licences were issued after he was a minister. That is relevant too, in that he was allegedly told by this letter not to do so, and it appears he did.

Mr. Chairman: Let me ask the next question. Does that seem like a reasonable exercise from the ministry's point of view?

Mr. Markus: We can do that, but I would like to clarify what some of the columns in this mean.

Mr. Mancini: Mr. Chairman, unfortunately, all of us do not have this important information.

Mr. Chairman: Excuse me for saying so, but this is not exactly the most businesslike way to proceed. If you want to table a document, table it with the clerk. The clerk will distribute it to everybody on the committee, so that we all operate with the same pieces of paper. We can proceed from there.

Mr. Markus, if you have questions about it, Mr. O'Connor could perhaps tell you who did the analysis for him, and you could probably conduct several back-and-forth operations to clarify that. Frankly, it would be unfair to stick a piece of paper of this kind in front of your nose and not give you the opportunity to get further information.

Mr. Markus: Should I seek clarification now or after?

Mr. Chairman: Mr. O'Connor, I take it you did not do this yourself.

Mr. O'Connor: I am familiar enough with it that I think I can explain what each column means, if the witness wishes to ask.

Mr. Markus: I have no problem with the first one, which is company, nor the second one, which is licence number, nor the area in square kilometres, which is the third one, which was all from the licence document. Has the annual cut been taken from the licence document?

Mr. O'Connor: No, that would be taken from the--what is it called?

Mr. Sterling: It is taken from the licence document.

Mr. O'Connor: The follow-up report.

Mr. Markus: Is it the allowable cut rather than the annual cut? There is a tremendous difference.

Mr. Sterling: It is the allowable cut.

Mr. Markus: That is what I thought.

Mr. O'Connor: Yes. That is not the actual cut.

Mr. Markus: Then in the last two columns, the volume per year, you have cubic metres and cords. What is that? Is that the allowable cut stated in the licence?

Mr. O'Connor: Yes.

Mr. Markus: It is not the actual cut?

Mr. O'Connor: No. I am advised that information comes from the district manager's report.

Mr. Markus: Yes, it could be that; it could be the licence as well. The square kilometres would be in the licence.

Mr. Chairman: Let me just get it on the record that I have some unease with this. It is reasonable to put this information over to the ministry and ask it to comment. The unease is generated by the fact that I have documents in front of me now from an unnamed source. I do not know who prepared them. I do not know the qualifications of the person who did them.

Mr. Treleaven: They are from Mr. O'Connor. They are Mr. O'Connor's documents.

Mr. O'Connor: I am prepared to have them entered in my name.

Mr. Chairman: Fine. You can enter them in your name. That is why we are going to hand them over to the ministry and ask it to comment. When we get some comments on them back from the ministry, we may have something we can deal with. My unease is a very natural one. I do not know who did the documents. I do not want to get into the process of calling that person as a witness. I do not want to challenge his expertise in the field.

If you are content simply to table these in Mr. O'Connor's name and ask ministry staff to comment on them, I feel on reasonably safe ground, but if you want to pursue this much further, you will cause problems for me and for everybody.

Mr. Sterling: Perhaps we should dismiss these witnesses and have them come back, if that is the way you feel. Whether Mr. Fontaine is in more substantial breach of the conflict-of-interest guidelines than even with the Golden Tiger shares is very relevant to the whole hearing.

Mr. Chairman: I am not about to do this routine many more times. You have had ample opportunity to say what you want to say and table any documents. I made the request early on that, if you had additional information, to put it in front of the committee. You have done that this morning in a form that causes me a little bit of a problem, but I am happy to hand it over to the ministry staff.

To be fair, the ministry staff have bent over backwards to provide all kinds of information, more than we could possibly use. I do not think we have asked them to do an onerous task today, but it would be reasonable to hand them the documents this morning and accept in writing their comments at a subsequent date. If that is what you want to do, we are okay.

Mr. Sterling: There are two time frames on which I think it is important to get some dialogue or some response from the witnesses. Without having to deal with the accuracy of the graph, they may be able to comment on those two areas. I am talking about the situation in April 1984, the situation at Spruce Falls, and then in April 1985, the James River situation, where I understand there was an accommodation for those two specific instances. I wanted to get some--

Mr. Chairman: You can ask those questions now. That is not a problem. As a final point, my unease stems from the fact that we did start out by taking virtually any request from any member of the committee and trying to



accommodate that. It soon became apparent that if we were to operate on everybody's whim, so to speak, we would not be able to handle the paper flow at all. So we did decide, as a committee, that from that point forward, if you wanted documents, if you wanted witnesses, you put it in the form of a motion and if the committee decides that is what it wants to do, fine.

I am not going to be fervent on that, but I think we also have to be reasonable here. If we can find a reasonable accommodation for anything that anybody in the committee wants to do, we will proceed on that basis, but if I start hearing objections to what is being proposed, then I am going to insist that you put it in the form of a motion. If the committee decides to do that, fine, we will do that; if the committee says no, we will not.

Mr. Mancini: Mr. Chairman, could I just say that we have these figures which have been worked out, they have been put forward by Mr. O'Connor and the ministry staff has agreed to go over the figures and give us its views on actually what they mean, if anything. We are not going, at this point, to object to the ministry reviewing the figures and coming back, if not today, at a later date, to try to clarify the matter. I do, however, think we are far afield from where we actually began. I believe that in the future we are going to object strenuously to the continual expansion of the Fontaine inquiry, but as far as this particular evidence--or information, I guess I should call it--is concerned, we will be pleased to co-operate with the committee and with the staff here to see what it actually means.

I find it hard to believe that a former Minister of Natural Resources such as Mr. Pope, who represents a riding adjacent to Cochrane North, a person who is immensely familiar with what goes on in the north, who had a sitting member and a minister in his own cabinet before the change of government, Mr. Piché, I find it hard to believe that these people were not actually tuned in to what was going on. I certainly know what is going on in the neighbouring riding and I am sure Mr. O'Connor and these other people know what is going on. This is not something that came out of the blue, something that just started. Mr. Pope served as minister for a number of years and he had Mr. Piché as his colleague for at least four years that I can recall. To try to leave the impression that all of this is a bolt of lightning that is just now being seen by everyone is absolutely ridiculous.

Mr. Pope signed the licences; we were told the other day he signed them after he got legal advice to do so. I do not know what was going on in Mr. Pope's mind, but I am assuming from the way Mr. Pope operated in the north that he did know what was going on.

Mr. Chairman: Okay. You see my unease here at the kind of swamp that we are into? You are opening up a little bit. Not that we should get relevant or anything, but you did ask these witnesses to appear this morning, purportedly to ask them questions. I think we have had a little entertainment among ourselves for a while, and maybe we can get back to the business of the day.

11 a.m.

Mr. O'Connor: Thank you, Mr. Chairman. I will to ynd make this relevant. In the material provided to us in advance, there appear two timber licences granted to Polar Lumber Co. Ltd., number 482000, and Arrow Timber Co. Ltd., number 482100, both dated August 29, 1985, both signed by your minister, Mr. Kerrio, and by Elinor Caplan.



What information would have come to the minister from his staff, prior to his signing these licences, as to who the effective owners of those two companies were? Would there have been any backup staff memo or recommendation attached to these before he signed them? What is the procedure followed in that regard?

Mr. Markus: Regarding the name of the company in which the licence is issued, it would be the one that would appear in the district manager's report, unless we at head office have reason to wish to confirm that it is the appropriate name. If we find that it is not, we change it.

Normally, however, we accept the district manager's report with the name of the company to which the licence should be issued and make an issue to any name that is wanted. We do not ask if it is specifically this company or that company, but to whom do you want to issue it.

Mr. O'Connor: I was not dealing so much with the name--I understand that--but with the effective owner of the company. I ask that because, given the date, August 29, 1985, it is well after Mr. Fontaine received the letter advising him that he should not deal with any of the United Sawmill licences or interests and that they should be put in a blind trust. Yet, he appears to have applied for and received a licence.

Would your minister be aware that Mr. Fontaine was the effective owner of Arrow Timber and Polar Lumber at that point?

Mr. Markus: Through my office and through the issuance of the licences through my branch, he would not be aware of any owner of any licence.

Mr. O'Connor: That is my question.

Mr. Mancini: On a point of order, Mr. Pope certainly would have known, because he met with Mr. Fontaine and others about the forest management agreement back in 1983.

Mr. O'Connor: I am talking about Mr. Kerrio. He is the minister.

Mr. Mancini: I am talking about Mr. Pope. When these licences were being given out over past years, certainly Mr. Pope would have known.

Mr. O'Connor: That is totally irrelevant. I am talking about August 1985, when Mr. Fontaine made application, through two of his defunct companies, to renew a timber licence, after he has received a letter from Mary Eberts saying: "Do not deal with them. It is contrary to conflict of interest guidelines." It has nothing to do with Mr. Pope.

Mr. Chairman: Can you help me? Anywhere in this process, does Mr. Fontaine's name appear on a document applying for a licence?

Mr. Markus: Subject to going over every document, I cannot recall whether his name appears in any place.

Mr. Chairman: Would the normal process be that somebody such as Mr. Fontaine would sign an application for the renewal of a cutting licence?

Mr. Markus: He could.

Mr. Chairman: He could.

Mr. Markus: If he is a director--

Mr. Chairman: He could act on behalf of the corporation then. Do we have any knowledge that he did?

Mr. Markus: By means of his signature, I cannot recall. Usually it is Mr. Cloutier and one of the Lecours--Charles Lecours.

Mr. O'Connor: Those are my questions for now. Thank you.

Mr. Chairman: Mr. Mancini, did you have some questions? Anyone else? Mr. Sterling?

Mr. Sterling: Yes. I would just like to refer to the April 1984 time frame. I do not know whether you would have information relating to the Spruce Falls situation; I just want to get an explanation on that.

During the period from April 1, 1984, to March 31, 1985, 24,000 additional cords were awarded to United Sawmill. Could you enlighten us as to why that happened?

Mr. Markus: In that year or the year before, we signed the Spruce Falls FMA--1985, was it?

Interjection.

Mr. Markus: Anyway, there was an FMA signed with Spruce Falls. One of the numbers that came out of the calculations for the allowable cut and the company's requirements to run its mill at Kapuskasing was the identification of a surplus to Spruce Falls's needs. It was an allowable cut of so much, and they identified a surplus.

Under section 21 of the FMA--and all FMAs have this--the minister may direct, in consultation with the FMA holder, surplus timber. The sawmills in Hearst had excess capacity to saw; in other words, they could saw more timber than they had available to them from their other crown sources. We, the ministry, directed a portion of the surplus, some to Levesque--that is, Custom Sawmills--and some to United.

Mr. Mancini: Mr. Chairman, on a point of order: Are we talking about the FMA?

Mr. Markus: No. I am trying to source the extra wood that is in the question. In trying to use up the surplus, it was decided that two mills in Hearst should get that surplus, and a third, by the way, in Timmins. So there were three companies that were assigned a surplus.

Mr. Sterling: Was that from an area that was normally cut by United, or was that from an area outside, or do you know?

Mr. Markus: It would be a different area, because the location of the allowable cut changes about every year.

Mr. Sterling: You do not know whether it is in the FMA--

Mr. Markus: It would be on the Spruce Falls FMA, yes.



Mr. Mancini: If we are not talking about the FMA, why do we keep bringing up the FMA?

Mr. Chairman: This is a different one; this is Spruce Falls.

Mr. Markus: Spruce Falls. It is simply utilizing the surplus. Three companies were assigned the surplus on Spruce Falls. That is the reason this additional amount was in United.

Mr. Sterling: So this 24,000-cord allocation would be in somebody else's FMA and therefore could not be in the Hearst FMA?

Mr. Markus: That is right.

Mr. Sterling: Then there was a jump in April 1985 to 130,300 cords. I believe that had something to do with a mill at James River. I believe there were some financial problems with the mill at James River, and this was seen as an accommodation to keep the mill going or something of that nature. Do you have any information about that at all?

Mr. Markus: The only connection between the Hearst sawmills and James River-Marathon--if that is the company you are referring to--

Mr. Sterling: Yes.

Mr. Markus: Let me think of the timing here. I believe it was around March or April of 1985 that a ministerial directive was placed on James River-Marathon--

Mr. Mancini: Who was the minister at that time?

Mr. Markus: Mr. Harris, I believe--in favour of the three Hearst sawmills to the extent that 10,000 cords of wood was to be offered to each of the three Hearst sawmills by James River-Marathon from its licence. Those directives were never consummated in the sense that any wood was cut or any licences were issued to bring those directives into being. I do not know whether that answers your question.

11:10 a.m.

Mr. Sterling: I think what you are telling me is that the jump from 91,000 to 132,300 cords--if the jump occurs, after you look over the material--did not occur because of anything dealing with James River.

Mr. Markus: No.

Mr. Sterling: It would not appear as a licensed lot?

Mr. Markus: No.

Mr. Sterling: If you find that is an accurate jump in allowable cut, I would like the explanation for it when you are writing to us.

Mr. Markus: Yes. I have noted that already.

Mr. Sterling: The other thing I wanted to question was in relation to the general procedure associated with FMAs, the process that goes on. If anyone has specific questions about the timber licences, etc., it might be

more appropriate to go ahead with them and I will come back to that, because it is a different line of questioning.

Mr. Warner: I am a city boy and do not know a whole lot about forests, licences and so on. I wonder whether you could go over the process for me. Who determines the cut for the licence, and how is it arrived at? If we accept these figures, that there is an allowable cut of 26,630 for Arrow, for example, who arrives at that figure? How do you put together?

Mr. Markus: I am debating whether to give you the short form or the long form. There are many crown units--and we will stick with crown management units--in the province. Each of these crown management units has an allowable cut calculated for it. When there is an allowable cut that is not allocated to anyone, entrepreneurs in the woods industry who wish to harvest wood can apply to the crown for additional volumes or new volumes if in fact the allowable cut has not been fully allocated.

The sawmill industry in Hearst did not begin until after the Second World War. Excuse me for taking you back this far, but I do not know how else to do it. Because the size of the timber in the Hearst area was not suitable for sawlogs prior to technological advances and the ability to saw small wood, no sawmilling industry existed in Hearst before the Second World War. After that time, technology appeared that allowed lumbering to occur in areas such as that, specifically sawing small timber.

Licences would then have been issued to people who said: "I want to establish a sawmill. You have surplus wood or wood that is not allocated in these crown units." Arrangements would be made to license an appropriate amount of timber, given the size of the sawmill that was being built. I can remember companies such as Selin Bros., which started up after the war. However, gradually, as individual mills expanded and new mills were put in place, the full allowable cut would have been allocated.

From the time when none of it was allocated, or very little, to the time when it was fully allocated is how you would determine how much timber to license to the sawmilling entrepreneurs in Hearst, if you wish to stick to that particular situation. I have been familiar with the Hearst district since 1973, when I was deputy regional director in that region. From that time at least, and certainly longer, the full allowable cut of crown timber had been allocated to the Hearst sawmills.

Mr. Warner: It is becoming a little clearer. The government determines how much can be cut. The process does not work in reverse so that a company comes to you asking for a specific amount it can cut; rather, you have decided this is how much can be cut.

Mr. Markus: They will usually ask for specific amounts. We have to determine whether it is unallocated and available and whether the specific amount they request is appropriate.

Mr. Warner: Then you follow up by finding out how much actually was cut?

Mr. Markus: Yes. We keep track of the actual cut.

Mr. Warner: On a yearly basis?

Mr. Markus: Yes.



Mr. Warner: For example, when you look at the figures that have been presented, which are strictly the allowable cut, can you tell us later how much actually was cut?

Mr. Markus: If the committee so wishes, we have actual cut figures that we could put in another column.

Mr. Morin: Are these quotas cumulative? Let us assume you were entitled to cut 25,000 cords, but you cut only 13,000. Can you carry that to the year after and add it to the new quota that is given?

Mr. Markus: If you have a multi-year licence--for example, a five-year licence--and you have a cut of 10,000 cords a year, you have the right to cut 50,000 cords of timber in five years. We do not ask that you cut 10,000 every year. We will allow you to cut 50,000 over the five-year period. We may even allow you to cut 50,000 in one year and say: "That is it. Your licence is finished."

Mr. Morin: If the 50,000 is not cut--say, 40,000 has been cut--can he carry it over?

Mr. Markus: We have two choices. We can reissue a licence to allow him to cut the 40,000, if we think it is appropriate--that is, if there is some good reason he has not harvested that timber--or we can say: "We gave you licence. You had the opportunity to cut it. You did not cut it. We are going to put it back into the pot again and redistribute it." That is a judgement call on our part.

Mr. Sterling: When you allocate an amount under a forest management agreement, is it a constant amount that will go over the period of the agreement?

Mr. Markus: No. The allowable cut on an FMA, and on all management units now, is recalculated every five years.

Mr. Sterling: In this case, United would be getting 130,500 cords--I think that is the figure--back for five years.

Mr. Markus: I think there is some speculation in that figure that I would like to verify.

Mr. Sterling: Whatever figure you verify, it would be for a five-year period and it would be reviewed at that time.

Mr. Markus: Yes.

Mr. Warner: When you are issuing a licence to a company, what do you want to know about the company before you issue the licence? What is important for you to know before you issue a licence to a company?

Mr. Markus: At present, 95 per cent of the licences we issue are to companies or people who have a converting plant of some kind, such as a mill, whether it is a pulp mill, a paper mill, a sawmill, a board mill or whatever. We issue licences to people almost exclusively who have a converting plant. That is the first thing. We issue a few to people who simply cut timber and sell it, but they are the minority.

If it is just a continuation of a commitment to a company--for example, a sawmiller whom we have been licensing at a rate of 50,000 cords a year--we

want to assure ourselves that he is cutting that volume and abiding by the terms and conditions of the former licences and the Crown Timber Act. If the allowable cut commitment could be maintained, we would issue him licences for 50,000 cords again.

Mr. Warner: What would cause you to withdraw a licence or not to renew it?

Mr. Markus: Nonusage of the allowable cut.

Mr. Warner: Do you have any interest in the financial viability of a company?

Mr. Markus: We do, but I cannot honestly recall our refusing a licence to an existing entrepreneur with a converting plant simply because we held his profitability suspect.

11:20 a.m.

Mr. Warner: In the case of United Sawmill, was this a routine matter for you? Did you have any particular concerns when the licence was handed out?

Mr. Markus: No. We continued issuing licences to whomever because they had abided by the terms and conditions of the licence, paid their crown dues and the wood cut on the licences was processed through their mill in Hearst. That is the main reason we licence wood: to make something out of it.

Mr. Warner: As far as you were concerned, it was a routine matter.

Mr. Markus: We had no large problems. There might have been a small amount of trespassing, but there was nothing out of the ordinary in the licensing of this timber, its actual harvest and where it was utilized, which is United Sawmill in Hearst. It was a straightforward procedure.

Mr. Warner: It was suggested this morning that some defunct companies had applied for and were granted licences. But as far as you know, the cumulative effect was that a licence was granted for a particular amount, for an allowable cut, and that was a bona fide request.

Mr. Markus: Yes, we processed it as such. The licensee performed adequately under the terms of those licences, harvested the wood and utilized it in the sawmill at Hearst. We had no problem with that.

Mr. Warner: To your knowledge, those companies, whether or not they existed, did not pose a problem for you in any way?

Mr. Markus: No, other than when we found they did not exist, we had to rectify that as far as the name of the company in which the licence appeared was concerned.

Mr. Warner: What did you do?

Mr. Markus: We recalled the licences and issued a licence in the name of United Sawmill Ltd. to replace the ones we had identified as being issued to nonexistent names.

Mr. Warner: For the licence you reissued, this time in the name of United Sawmill, was the allowable cut the total of the previous three companies?



Mr. Markus: Yes.

Mr. Warner: There was no change in the allowable cut. It had simply been reissued in a different name.

Mr. Markus: Yes.

Mr. Warner: Through this whole process, was there any personal intervention by Mr. Fontaine?

Mr. Markus: Not that I am aware of.

Mr. Warner: Was there any intervention by an agent of his, such as Mr. Cloutier or Mr. Gagné?

Mr. Markus: I am not sure what you mean by intervention.

Mr. Warner: If it was not Mr. Fontaine, did anyone else acting on his behalf contact your ministry and request that things be tidied up and everything made to look right?

Mr. Markus: Specifically tidy up what?

Mr. Warner: The discrepancy with the defunct companies.

Mr. Markus: As I said earlier, I and my staff at head office never received a request that we are aware of to change the names of those licences to United Sawmill.

Mr. Warner: You discovered the problem.

Mr. Markus: Yes.

Mr. Warner: Can you offer some thought on what was the cause of the problem?

Mr. Markus: No, I cannot.

Mr. Warner: It would be speculation.

Mr. Markus: Yes.

Mr. Warner: You did not have any suspicions?

Mr. Markus: I do not say it is common, but it has happened before. There are lawyers who handle clients in the woods industry who do not inform us of name changes.

Mr. Warner: Can you give me an approximate time frame when all this unfolded?

Mr. Markus: What is "all this" I am talking to there?

Mr. Warner: The time the licences would have been issued for the companies that were actually defunct and the time the licence was issued to United Sawmill to correct the situation. What was it approximately? Five years?

Mr. Markus: We are trying to recollect. Somewhere around the start

of this year we requested the surrender of the licences that we wanted to change to United, received them and reissued a new licence.

Mr. Warner: Mr. O'Connor is suggesting the companies have been defunct for five years.

Mr. O'Connor: Since 1981.

Mr. Warner: But the licence is for a five-year period.

Mr. Markus: No. The licences are for various periods, and they are listed in the information I provided earlier.

Mr. Warner: That is fine for now. Thank you very much.

Mr. Morin: I have a supplementary to Mr. Warner's question, just a hypothetical question.

Let us say I own five companies. They all operate properly, and are all given a quota for five years. I then want to reorganize my company, and have one company, because I know I can produce more if they are placed together. Would the quotas given to these companies remain with me under the new company I create?

Mr. Markus: Is that the question?

Mr. Morin: Yes.

Mr. Markus: As long as you operate in an appropriate manner and style.

I presume you have a sawmill in this particular case and a number of licences to supply wood to that sawmill. If you wanted to amalgamate a number of companies and you were going to maintain your lumber business, as long as you have abided by the terms and conditions of the licence under the Crown Timber Act, we would transfer that licence to the name of the new company at your request.

Mr. Morin: Let us say some companies existed for two years; they each had 50,000 cords, cut 10,000 cords a year, and had 30,000 cords left. Do you know what I am getting at? In other words, do you get this all together? If you had 250,000 cords over five companies, and there are 150,000 left; do you get 150,000 cords in the range of two and a half to three years?

Mr. Markus: If each of these five hypothetical companies had an allowable cut allocated to it from the crown unit, and we had been licensing that allowable cut to those companies, should you amalgamate and request a licence to lump all those allowable cuts together, if you were operating in a manner and style that was suitable, we would reissue the licence in the name of the one company for the total allowable cut that would have been allocated to the five--if that was the way you wished it.

Mr. Morin: Is there any clause in the agreement between you and the sawmill operator under which, if the company were to become defunct or there were changes in it, you would have to be advised automatically? Or would it be up to you to check on an annual basis on how the company is performing, whether it is operating under the same name, etc.?



Correct me if I am wrong, but I seem to detect that there was some negligence by someone in reporting that the companies were defunct and were operating under United Sawmill. Am I right in saying that?

Mr. Markus: All I am saying, and all I have said, is that the names we were asked to issue the licence in were the ones that appeared in the documents we received from the field; that triggered the licensing process, which was finalized in Toronto by my branch and on through the Lieutenant Governor in council. Those are the companies to whom we issued the licences.

We subsequently found out that three of them were not legal entities. We rectified that by calling these licences back and issuing a licence to an appropriate legal entity, United Sawmill.

Mr. Mancini: Did you change any figures?

Mr. Markus: No. Are you talking about allowable cuts?

Mr. Mancini: Yes. That is what seems to be at question here.

Mr. Villeneuve: Thank you, Mr. Chairman--

Mr. Morin: Just a moment. Do you feel it should have been the responsibility of United Sawmill to advise you that those companies were now defunct?

Mr. Markus: We feel it is the responsibility of any licensee to advise the crown if the name of the licence is to change.

11:30 a.m.

Mr. Morin: Do you yourself have the responsibility to make sure those guidelines are followed? Do you have a way of policing whatever regulations you have?

Mr. Markus: The only vehicle I am aware of--and, again, I am not a lawyer--is that we were told we should check through the company's branch to verify the legal name of a company or partnership that is applying for a licence.

Mr. Morin: We know the north as being a vast area, but the moccasin telegraph works very well, and you would be informed very quickly of any impropriety, anything that would be wrong.

Mr. Morin: I guess our moccasin telegraph was not working very well in this case.

Mr. Mancini: I doubt that Mr. Pope was asleep.

Mr. Villeneuve: Mr. Markus, you are obviously very knowledgeable of the area we are speaking of, Hearst and the vast surrounding area. Basically, have all timber rights been allocated in that area?

Mr. Markus: Except for the units far to the north that are unroaded and inaccessible, the full softwood allowable cut has been allocated in that area.

Mr. Villeneuve: The economics of going for that far-out lumber are

not good right now and, therefore, no one will be seeking allocation of timber rights for the immediate future to those areas that are unallocated at present.

Mr. Markus: Generally, that is correct, yes.

Mr. Vinneneuve: To increase the cordage or the lumber that you harvest from the bush, first, you have to own that sawmill and, second, show that you are processing the lumber, but you can obtain reallocations of unharvested lumber. Tell me the process of obtaining a reallocation, further to what I have just mentioned.

Mr. Markus: Do you mean an increase in the allowable cut or a reallocation of where you can cut the allowable cut?

Mr. Villeneuve: Reallocation.

Mr. Markus: As a matter of course, every time we issue a licence, be it a licence for one, two, three, four or five years, we will change the location of that licence so the licence will give the right to cut the timber that should be cut at that time.

Mr. Villeneuve: The mature timber.

Mr. Markus: Yes. It is a movable feast. You cut where the mature timber is. We licence someone for one year. Whatever our commitment to him is for one year will be stated in the licence, and the area where that will be harvested will be specified. When that is done, we move somewhere else to give him another commitment for crown timber to the allowable cut we have agreed upon.

Mr. Villeneuve: When you say "we," you mean the ministry or employees of the Ministry of Natural Resources, always ultimately with the minister's signature.

Mr. Markus: He signs something in the licensing process. He is given permission by the Lieutenant Governor to issue a timber licence to whomever, and by his signature he issues it.

Mr. Villeneuve: To harvest more lumber, over and above your initial allocation, you have to go through the minister and prove to the minister or the ministry's employees that you have sale for it and processing capabilities, and it can then be allocated through the minister.

Mr. Markus: Yes. If you are talking about an increase, obviously there has to be a portion of the allowable cut that is not committed. If it is all committed, we cannot increase anyone.

Mr. Villeneuve: It is all committed and being harvested as per the licensing.

Mr. Markus: Yes.

Mr. Villeneuve: I understand that chips are a bit of a problem. They are a byproduct, and you sometimes make arrangements with different sawmills to liquidate, get rid of or utilize the chips. Tell us a little bit about that.

Mr. Markus: The only role the ministry plays in chips is to direct the chips, usually on a rate of first-refusal basis. I will give you an



example. We spoke about several licensees utilizing the surplus on Spruce Falls. We will license those people to cut on Spruce Falls, and in the licence we will put a condition that Spruce Falls will have the first right of refusal on those chips. Because we are taking fibre away from them, albeit surplus to their needs, we think it only reasonable to give them an opportunity to purchase the chips first. We get into the chip game only by attempting to direct them on the right of first refusal. This is very common. Does that answer your question?

Mr. Chairman: This is just a tad afieled of the inquiry that we are supposedly holding now. I have let the questions from all sides go on all morning, struggling my little heart out to find some relevance. I am going to let it go for the rest of the morning, so that everybody can be equally irrelevant, but please help me a little bit.

Mr. Villeneuve: My main aim here is simply to bring out the fact of a matter that the minister and the ministry have a great involvement in--

Mr. Chairman: But it is a different minister and a different ministry.

Mr. Villeneuve: It still comes to the same cabinet table.

Mr. Chairman: Yes. We all sit in the same Legislature too.

Mr. Villeneuve: Yes.

Mr. Chairman: You are competing at the same level as the previous competitors this morning.

Mr. Villeneuve: This will be the last question on chips. Are they a major problem to your ministry? When you talk of rights of refusal, does it become a problem in getting rid of this material, and do you get directly involved in literally dictating where they go?

Mr. Markus: We do not get involved in disposing of the chips. We are not into the marketing end; we do not force anyone to buy chips. We merely direct the right to purchase them on a first-right-of-refusal basis.

Mr. Villeneuve: Is it a thorn in your side or a problem to the ministry?

Mr. Markus: The way it is a problem is if chips cannot be sold to sawmillers, the industry itself has a problem. When the industry has a problem, it usually comes back to us in part or in whole; but I must stress we have no role to play in the specific marketing of chips. If there is a glut of chips on the market, it is an industry problem and we are concerned, but there is little we can do about saying to one company that it must buy the chips of another company.

Mr. Treleaven: Mr. Markus, on August 13, you sent to Mr. Eichmanis, our researcher, a letter which was entered as exhibit 2/032. In it were details of various old licences under the nonexistent companies and under Arrow. In adding those up, it looks as though there were six old licences cancelled under the names of nonexistent companies and four new ones issued under--

Mr. Markus: What year are you at, sir?



Mr. Treleaven: It is your letter to Mr. Eichmanis enclosing--not the documentation today, no.

Mr. Markus: Is this the letter? This is July 25.

Mr. Treleaven: No. It is your August 13, 1986, letter.

Mr. Markus: Show it to me.

Mr. Treleaven: You are sending over photocopies of old licences and new licences, or old agreements of termination, of surrender, and new ones.

Mr. Markus: I have it.

Mr. Treleaven: In adding those up, it appears there are six old licences cancelled and four new licences granted to United. Those documents are all dated March 31. The surrenders and the new licences are all dated April 1, 1986. When did you become aware of those six licences held by the nonexistent companies?

Mr. Markus: In January 1986.

Mr. Treleaven: In January 1986. How did you become aware of that?

Mr. Markus: We checked the name of United Sawmill Ltd. to make sure it was correct in the licence we were issuing. When we checked at the companies branch for that information, we found a document of amalgamation, or whatever you call it, of Arrow, Polar and Mooseland.

11:40 a.m.

Mr. Treleaven: Articles of incorporation, yes, or articles of amalgamation.

Mr. Markus: When we found that, we then tried to rectify the licence situation by recalling those licences and issuing them to United.

Mr. Treleaven: Was this just a standard check? Out of the blue, you were just checking for existence?

Mr. Markus: Simply a verification of the proper spelling of the name.

Mr. Treleaven: Of United?

Mr. Markus: Yes.

Mr. Treleaven: It was just by accident that this happened to come up, that you made the search?

Mr. Markus: That is why we made the search.

Mr. Treleaven: For the spelling?

Mr. Markus: Right.

Mr. Treleaven: You got the spelling and you discovered these additional details?

Mr. Markus: That document that I mentioned was there.

Mr. Chairman: I am going to plead for mercy here. You are the third member who has asked this question this morning and you have asked it five times now.

Mr. Treleaven: I am just thorough.

Mr. Chairman: There is another word I would use, and it would not be "thorough."

Mr. Treleaven: That is the last time.

Mr. Chairman: Thanks.

Mr. Treleaven: Is it common practice to adjust licences during their terms if you find any discrepancy in a licence, to get a surrender of the old one and issue a new one during its term?

Mr. Markus: Yes. If we find out the licence is issued to some company or name that is not legal, then we change it.

Mr. Treleaven: Have you done that often in the past?

Mr. Markus: I have to consult here. Just putting our heads together, two or three times over the past several years.

Mr. Treleaven: Over the past quite a number of years? Two or three times in the past 10 or 12 years? Is that fair?

Mr. Markus: No. Five or six.

Mr. Treleaven: One interesting and curious thing, when you asked for these surrenders back from these nonexistent companies, whose idea was it to have the company again sign its signature--by Mr. Lecours and another individual, whose signature I cannot make out? Was it your legal department? Whose idea was it to have a contract between your ministry and a nonexistent company?

Mr. Mancini: Alan Pope.

Mr. Chairman: Mother told me there would be days like this. I hope there are not too many.

Mr. Markus: We talked about this earlier. In our nonlegal minds, we felt it would be appropriate for those companies, albeit they be nonexistent, to have signed some document that surrendered that licence.

Mr. Treleaven: It is part of the tidying-up process. Is it fair to say that?

Mr. Markus: Right. I suppose we could have said the licences do not exist because the companies do not exist. We did not proceed that way. We proceeded this way. Again, we were asking someone, a director of a nonexistent company, to sign something. We wanted something on our file, I guess.

Mr. Treleaven: I just want to refer to the last thing, Mr. Chairman. You are itching in your seat, so I do not want to disturb you further.

Mr. Fontaine has stated to the committee--and I will read it; it is in reply to a question of mine about Arrow, Mooseland, Fontaine Lumber and so on. Mr. Fontaine said: "I think you know that when you are involved in a company you hire people to do the job. Then you apply for a licence and it is up to the government to decide whether the licence should be under the name of Polar, United Sawmill or Treleaven. It is not my business."

Then I asked him about signing applications and he said, "I told you three times yesterday and today that the government at that time, which was a Conservative government, did not want to change the name of the licence and that had nothing to do with that."

Then I asked him, "They wanted to change the name of the licence to United?" I think it was my hearing problem. Mr. Pratte said, "They did not."

"Did you not point out that these companies no longer existed?" was my next question. Mr. Fontaine replied, "They knew that." I asked, "They no longer existed and yet someone was filing applications on their behalf?" Mr. Fontaine said, "That is their business."

Do you disagree with Mr. Fontaine that you knew these companies no longer existed?

Mr. Markus: Myself and my staff at head office were not aware that these companies were not legal entities when the documentation came from the field to process those licences.

Mr. Chairman: I see Mr. Sterling has finally decided to stop visiting everybody else around the room and has now resumed his seat and has a question. Go to it.

Mr. Treleaven: The chairman is very facetious this morning.

Mr. Chairman: I am operating on the premise that if I have to listen to all this boring, repetitious stuff, each one of you has to do that too.

Mr. Treleaven: A bad traffic jam on the way from Oshawa, is that it?

Mr. Sterling: I do not know if I dare ask a question.

Mr. Chairman: You will. We know you. You will.

Mr. Treleaven: He is intimidated.

Mr. Sterling: I will try to keep this as brief as I possibly can and I do not think it will take too long.

In terms of the general process of the FMA, has it been the practice basically to get the FMA in place and then go to the area for your public meetings and then have approval of the FMA that way? Is that the normal process?

Mr. Tworzyanski: No, it is not.

Mr. Sterling: What would be the normal process in terms of the sequence of events and how you would do it?

Mr. Tworzyanski: The sequence of events? To take it from the



beginning, the company makes application. As I stated earlier, we have and have had a list of companies interested in FMAs since about 1979-80 and we are working our way through that. The application for the FMA generally relates to the area that is currently licensed to that company or where that company currently operates.

Following that application, there is a committee set up of ministry staff and company staff to deal with determining the area that would be properly put under an FMA. As part of that determination, there is a public meeting held to discuss the area that is being considered for the FMA and to discuss some preliminary documents, the agreement itself and the ground rules.

Following that public meeting, there is some tidying up done and the area on which the FMA will be established is finalized, negotiations continue and a draft agreement is prepared. That is then approved by both parties and runs through the normal legal process here and is essentially signed as if it were a licence.

Mr. Sterling: As of the date of the open house, you normally have the area outlined. You would have to in order to define it in some way. Do you have the terms of the agreement pretty well nailed down?

Mr. Tworzyanski: Generally, yes.

Mr. Sterling: Is the allocation of cuts normally involved in that as well?

Mr. Tworzyanski: No, it is not. That process takes place later through the planning process, which is one of the obligations wherein an FMA holder must undertake to produce proper planning documents, long-term operational documents of 20 years with five years worth of operations. That process is fairly intensive in terms of public participation and input from the ministry and from the company as to the allowable cut calculation and where that cut will actually be allocated.

Mr. Sterling: When was the figure we have used here of 130,500 cords, which you are going to confirm later, arrived at?

Mr. Tworzyanski: I would like to speak to that. When we deal with--

Mr. Mancini: Mr. Chairman, on a point of order: How can you speak to the FMA when it has not been agreed to yet?

Mr. Sterling: I am speaking to the figure we have been given by the Ministry of Natural Resources. I asked them when they arrived at that figure.

11:50 a.m.

Mr. Tworzyanski: I should get into the planning process a little bit to give you a little more clarification on that particular number. It relates to the question you gave us last time on the traditional use from the FMA area.

When an allowable cut is calculated, it is calculated for a management unit, and there were about three and a half management units that made up or will potentially make up the FMA in question. Allowable cuts are not additive; that is, you cannot take allowable cuts on two units, add them together and say that is now the allowable cut for the new unit you are going to create. The allowable cut in a forestry sense is based on the potential of the whole

land base. It is reasonably complex in that it deals with the various ages of the forest, the various stand breakdowns and so on; it is not additive from one place to another.

The number of 130,000 that you have there that United Sawmill would conceivably receive is based on an estimated allowable cut for the full FMA area, and it is simply the percentage to which United was entitled or had as a quota, as you called it, in the past.

I should add that the allowable cut on FMAs, and currently on crown units, is calculated in a manner different from the one, let us say, in 1981 or 1982. To put it very simply, we are currently calculating allowable cut in a manner that allows us to harvest more overmature timber, and the allowable cut drops off every five years or if that timber is fully harvested.

Does that put things in perspective?

Mr. Sterling: Yes, it does put them in perspective. I was just wondering when you got to the 130,000.

Mr. Tworzyanski: The 130,000 is based on an estimated allowable cut for the present proposed Hearst FMA area of 450,000 cords. We came up with that 450,000 on the basis of some preliminary calculations of the potential of the land base to supply timber, and our estimates, based on some general parameters that we selected, came up with 450,000 cords. Through the planning process, that number will be modified or fine-tuned, but it will be within that ball park.

The 130,000 is simply 29 per cent of what our estimate was of the obtainable cut that United Sawmill will have from that area. We simply multiplied 29 per cent by 450,000.

Mr. Sterling: When did you make the calculation of 29 per cent of 450,000? Do you know what time frame we are talking in?

Mr. Tworzyanski: The calculation was made, in the letter of July 25 in terms of the questions that were asked of us, of the proportion of wood harvested by the three major players on that FMA area--Custom, Lecours and United--and we provided that information on a percentage basis.

Mr. Sterling: This was July 25?

Mr. Tworzyanski: It is in the July 25 response that we made.

Mr. Sterling: In 1986?

Mr. Tworzyanski: Yes, that is correct.

Mr. Sterling: That figure had never been discussed with United or--

Mr. Tworzyanski: The percentage figure?

Mr. Sterling: Yes.

Mr. Tworzyanski: The percentage figure is one that, in our opinion, has existed for a period of time in terms of the amounts of wood that those particular companies harvested from the existing FMA areas.



Mr. Sterling: When you were presenting your case at your open house, did you present the figure of 450,000 cords at that time?

Mr. Tworzyanski: No, we would not.

Mr. Sterling: You would not have presented that at that time?

Mr. Tworzyanski: No, because that was an estimate of potential availability on that area. The reason we do an estimate is to see whether the area can viably sustain the current requirements of the various plants that are going to derive wood from that area.

Mr. Sterling: Was that estimate available at that time?

Mr. Tworzyanski: I would not know without going back and checking the records.

Mr. Sterling: Would you do that for me?

Mr. Tworzyanski: I could, yes.

Mr. Warner: There is an aspect of this that I am a little puzzled about. I gather that licences were issued after Mr. Fontaine went into cabinet to companies that someone in the ministry knew were owned by Mr. Fontaine. Did anyone in the ministry, either in the field or down here who would see that this was a conflict of interest, raise the matter? Did anyone mention it by phone or in writing to say we are issuing licences to someone who owns a company and who happens to be in the ministry?

Mr. Markus: No, we did not.

Mr. Warner: Did anyone mention it? Did anyone from the north, from the area in question, from Hearst and so on, phone or contact senior officials here to say someone should be aware that there might be something wrong?

Mr. Markus: Not that I am aware of.

Mr. Mancini: I have a supplementary. I assume David is saying that these licences should not have been reissued to United Sawmill because Mr. Fontaine had been elected and become a cabinet minister and that these licences, some of which had been given out since 1952 or earlier, should have automatically dissolved when United was put in a blind trust and other people were supposed to operate it.

Mr. Warner: And you are suggesting that cabinet ministers should have an opportunity to use influence where ordinary citizens do not have that opportunity for economic advantage. If that is your position, that is fine; it is not mine.

Mr. Mancini: Without--

Mr. Chairman: You asked a question, Mr. Mancini, and you got the answer you deserve.

Mr. Mancini: That is not quite true.

Mr. Chairman: The question was, was ministry staff aware that Mr. Fontaine was a participant in the companies that had these licences? They were



aware, but they also said no one said that was untoward. No one questioned the validity. That was my understanding of his question.

Mr. Warner: The purpose of the inquiry is with respect to conflict of interest, Mr. Mancini, and that was the point of my question: whether this apparent conflict of interest was brought to anyone's attention. We know there was a conflict. We know the companies in question were owned by Mr. Fontaine. We know he was in the cabinet and that while he was in the cabinet the licences were issued to companies he owned.

I think my question was very reasonable: Did anyone in the ministry who had this knowledge contact senior officials down here to let them know that maybe something should be attended to? The answer was, no, no one did. Is that question not in order?

Mr. Mancini: I was not questioning whether the question was in order. I was trying to dig a little deeper, and I need your help.

Mr. Warner: Then you go right ahead and I will listen to your question.

Mr. Chairman: You are in pretty deep now, Remo.

Mr. Mancini: I do not think so, because what we are talking about, and I will address this to Mr. Markus, is that these licences had already been established and given out over the course of years. When were some of these licences given out originally?

Mr. Markus: Many years ago.

Mr. Mancini: Is it a decade? Is it two decades?

Mr. Markus: A decade, a decade and a half, some of them.

Mr. Mancini: In fact, some of these licences were 15 or 20 years old?

Mr. Markus: No. The companies to whom we issued licences were that old. Licences are usually one to five years and they are renewed.

Mr. Mancini: Is it not my understanding that when these licences come up for renewal, if the companies had acted in what the ministry thought was their best interests, the renewals were given?

Mr. Markus: Yes.

Mr. Mancini: It was almost automatic.

Mr. Markus: My fine point is, there simply has not been one licence existing for 15 years; there has been a series of licences. It is a small point, but I want to make it.

Mr. Mancini: It is splitting hairs. If the company had acted properly, in the view of the ministry, then the licence would be renewed?

Mr. Markus: Yes.

Mr. Mancini: It concerns me somewhat that, because a person is elected and then put into the cabinet, the entity United Sawmills goes into a trust--

Mr. O'Connor: It was not in a trust. That is the problem.

11:20 a.m.

Mr. Mancini: He had until a specific date to put it into a trust.

Mr. O'Connor: It was not in a trust.

Mr. Villeneuve: (Inaudible) correspondence from Mary Eberts.

Mr. Chairman: You will all get a chance to argue the politics of this shortly. We are supposedly questioning the witness this morning. I would be a little happier if you would do that.

Mr. Warner: It is more fun to question Mr. Mancini.

Mr. Chairman: I know.

Mr. O'Connor: Mr. Mancini is an easier target.

Mr. Chairman: None of you is in a position to make wild-eyed allegations on which somebody is drawing conclusions this morning. You are not in very good shape to argue relevancy either. So, sleeping dogs lie down.

Mr. Treleaven: How can you say that?

Mr. Chairman: Mr. Mancini has the floor.

Interjection.

Mr. Mancini: I know you have enjoyed me here.

Mr. Chairman: Do you have any further questions?

Mr. Mancini: Yes. I just want it to be made clear that the transfer of licences is done on the basis that, in the view of the ministry, the person has operated properly. Is that not correct, Mr. Markus?

Mr. Markus: Yes.

Mr. Sterling: The transfer of a licence?

Mr. Markus: Not a transfer; a new licence is issued.

Mr. Mancini: The renewal.

Mr. Markus: Yes.

Mr. Mancini: So these renewals had been given over a long period of time.

Mr. Markus: Yes.

Mr. Mancini: Automatically, almost. Then, when a person joins the Legislature and becomes a minister and these licences are renewed, some people want to conclude that there may have been undue influence when we can see that for a long time, as long as the people operated properly in the view of the ministry, the licences were renewed. That is the point.

Mr. Markus: I believe I have said yes to that already. Have I not?

Interjection: Yes.

Mr. Mancini: Where a conflict could lie is really news to me. It is certainly difficult to see when the historical record shows that they have been continually renewed.

Interjection: Mary Eberts said--

Mr. Chairman: That is a tough question for the witness to answer. Do you have any more? Do any other members have questions?

Mr. Bossy: Just a supplementary regarding all those licences that were renewed during the period Mr. Fontaine was in the cabinet. Were there any changes in the licences as far as the amounts are concerned?

Mr. Markus: No, there was no change as I recall it.

Mr. Bossy: That verifies what Mr. Mancini said, that it was a normal practice to renew them and that there were no changes in the amounts of the licences.

Mr. O'Connor: On the last point, I believe the figures show there were considerable changes. The cordage cut increased from 26,000 cords in April 1981 to 132,000 cords in April 1985; so there is a big jump.

Interjection: This is your stuff.

Mr. O'Connor: It is subject to verification. I believe you will find it is correct. These figures are from the district manager's report.

Anyway, the only point I wanted to make was that I had previously asked the witness to produce the district and regional records for all these companies, including United Sawmills Ltd. That is quite a task and quite a volume of paper. I would qualify that to ask for those records from May 2, 1985, the date of Mr. Fontaine's election. That would be sufficient for my purposes.

Mr. Mancini: I think we should have all the stuff. That way we can make a better--

Mr. O'Connor: All right. That is fine.

Mr. Chairman: Hold on here.

Mr. O'Connor: I just want to save you some time.

Mr. Chairman: Wait a minute. We have got ourselves into a little jackpot by people asking off the cuff for volumes--and I mean volumes--of information that we do not use and then call a halt to that process. What I consider to be relevant would be information from the date Mr. Fontaine was appointed to the cabinet. That might be relevant to the work of this committee.

Mr. Mancini: If that is the case, why do we have documentation put before us by Mr. O'Connor that goes back to 1981 and we ask these people to comment on it?



Mr. Chairman: Because the committee previously asked for the information on which that document was supposedly prepared.

Mr. Mancini: Then how are we supposed to compare the procedure prior to last year?

Mr. Chairman: If you pursue me much further, I will make them produce the documents and I will make you sit in this room and read them. I am fed up with people, off the cuff, asking for volumes of information that absolutely no one pays any attention to.

Mr. Mancini: So am I. I agree with you.

Interjection: That is right. It is totally irrelevant.

Mr. Mancini: The whole request is irrelevant.

Mr. Chairman: I have no problem with asking for this information from the time when he was appointed to the cabinet. That seems to me to be properly before us, and they have indicated they can do that. Is that reasonable?

Mr. Markus: I am sorry?

Mr. Chairman: What would be the date?

Mr. Villeneuve: June 26, 1985.

Mr. Markus: June 26.

Mr. Chairman: June 26, 1985.

Mr. Markus: Could I seek some more sympathy from the committee here on documents?

Mr. Chairman: You might as well. Everybody else does.

Mr. Markus: We now have a request on our plate to provide copies of all the licences listed in this letter, that information I provided you.

Mr. Chairman: Yes.

Mr. Markus: And go back to 1975?

Mr. Chairman: Yes.

Mr. Markus: We have to go into archives. That request has come from this committee through Mr. Eichmanis. Do you still want that stuff?

Mr. Mancini: They do not know what they want.

Mr. Chairman: The answer to that question is no.

Mr. Markus: Thank you.

Mr. Warner: I want to try quickly to clarify a couple of things. I have made an assumption--and I guess it seems fairly obvious--that the licence is something a company requires. Without that licence a company really cannot do business; is that right?

Mr. Markus: Not if they are in the business of running a sawmill.

Mr. Warner: If the company for some reason did not get its licence renewed or was not granted a licence, it would be in serious trouble?

Mr. Markus: Yes.

Mr. Warner: In some cases, if it is a small town, it means the economic life or death of that town in all likelihood; right?

Mr. Markus: Yes.

Mr. Warner: Those licences are extremely important. I am still not sure as to the economic value of the forest management agreement. There is an assumption that it is a good thing for a company to have, but I do not know how valuable. Is there any way to quantify the value of a forest management agreement to a company?

Mr. Markus: I recall being asked that question the first time I appeared here. We expressed some concern that we would not be able to provide that. We were not sure what the parameters were. I believe the chairman at the time suggested the committee might seek an outside source for that information, since it might take economic analyses which perhaps we are not capable of doing nor used to doing. That is where that was left, and I guess I have to answer your question exactly the same way.

I think it has been mentioned before that if you have the right to cut crown timber, it is an asset, as we understand it. You can go to the bank and say: "I want to borrow money. Look, I can cut timber for five or 10 years." It does not matter whether it is an FMA or an order in council. That ability to use the right to cut timber to impress your banker exists, be it an FMA or an order in council.

Mr. Warner: Presumably, it is of some benefit to a company to have one of these agreements. On the other hand it is not a guarantee either. I guess it is equally possible for you still not to be able to impress the banker. Presumably, before the agreement was entered into, the company would have had to impress the government that they were a viable entity.

Mr. Markus: The Hearst operators had licences to cut all the crown timber in the Hearst crown management units, the various units. They could have used those order-in-council licences to go to the bank, to impress the banks or whatever. They can also do that with an FMA. It is not something different they are getting. There may be a little firmer tenure, mind you.

Mr. Warner: Thank you very much. We appreciate your coming.

Mr. Chairman: I am going to seek some clarification from the committee of what it wants. The normal way would be to seek a motion. I am prepared to entertain discussion prior to asking for a motion. At this time, I am not sure what people want, and I am going to ask you to clarify that for me.

12:10 p.m.

Mr. Sterling: First, dealing with the date, the time frame that I am interested in or that the committee should be interested in, in my view, is May 2 on. We do not know when Mr. Fontaine was first informed that he was going to be a minister of the crown. We do know that on June 9 he was informed



that he was going to be a minister of the crown. June 26 in some ways becomes--although he was strictly a minister at that time, I would think anything that happened up to the time he was informed he was going to be a minister is important as well. I would say, in terms of the time frame of any record, May 2, 1985, would be the easiest figure for me to pick.

I understand the records kept in the Ministry of Natural Resources regional offices and district offices, the ones we would be interested in, would be United Sawmill and the amalgamated companies--in other words, Polar, Arrow and Mooseland--and anything on the Hearst FMA.

Mr. Markus: You have all of the FMA stuff.

Mr. Sterling: That is from all the regional offices as well?

Mr. Markus: No.

Mr. Sterling: Any nonrepetitive document, I guess. I would not want a copy of all those agreements again. Thank you.

Mr. Chairman: We now have the central ministry files on all of those matters. You have those. What you are seeking are additional files that might be kept in the regional office in Timmins and Cochrane and in the district offices in Cochrane, Timmins, Kapuskasing, Hearst and Chapleau. Is that right? That is what you want?

Mr. Sterling: Specifically dealing with those particular companies.

Mr. O'Connor: It would be expected, Mr. Chairman, that in most of those district offices there may be no files whatsoever on the companies, but they have done cutting in each of those districts and, of course, the two regions. The two regions cover those districts. The reason I think they are necessary is, as the witness testified this morning, applications for licences are made at that level and are dealt with at that level by--

Mr. Mancini: For licence renewals.

Mr. O'Connor: I think that is a misnomer. You do not renew a licence. Once an area has been cut, you cannot renew the licence to cut the same area for 40 years. You have to go to another area. It may be the same company asking for a subsequent cut, but it is not a renewal of the same licence because there is not the same wood there.

Mr. Mancini: It is a renewal to do business.

Mr. Chairman: Maybe Mr. Markus could help us out on this. I think what they are looking for is to see whether there are files kept at the regional and the district offices which would be substantially different from the files you have presented to the committee. Can you answer that question for us? Are they?

Mr. Markus: There may be material on file at the field level that we do not have.

Mr. Chairman: That you do not have.

Mr. Markus: And there will be some repetition as well.



Mr. Chairman: I am hearing different sounds from different parts of the room here.

Mr. Warner: I do not know what the purpose of this exercise is. I confess to being a little uneasy about continually asking government officials to produce volumes of paper which may have absolutely no relevance whatsoever. So far, the people who have come before us, including this morning, have been extremely helpful and very forthright in their information. I do not understand why we continually ask them to produce mounds of stuff, most of which is never read. I would really like to know why we want what is now being asked for.

Mr. Sterling: The relevance, in response to that question, would be on the very licences you were questioning the witnesses on--

Mr. Warner: Right.

Mr. Sterling: --whether or not there was anything in the files out in the regions that indicated there was some communication that Mr. Fontaine was involved with Arrow, and I forget the other company that applied for licences, renewal or not renewal of licences, in August 1985. That is one particular matter I am interested in.

Mr. Chairman: To put it squarely in front of you, I have two problems. One is there is the practical problem of paper and use of it. Frankly, you have asked for all files the ministry had and you have got those. You are detecting that there may be additional pieces of paper kept in other offices and you want those. There is a practical problem of just physically having somebody go and get all of those files, duplicating them and bringing a set down here--not that it is insurmountable; we have certainly done that a lot.

The second one, and the one that does bother me more, is that I am having some difficulty seeing the relevancy of it to the matter that is currently before the committee. Establish that for me.

Mr. O'Connor: I think the relevancy became evident this morning with this witness's evidence that the licence applications and so-called renewals are dealt with at these levels, coupled with his evidence that there is likely to be some different material in the regional and district files to what he has been able to produce from the central file.

Mr. Warner: What kind of different material? The application forms?

Mr. O'Connor: It might be the application forms, whom were they signed by, what involvement was there of Mr. Fontaine in that process. I think that follows directly from Mr. Warner's questioning to which, I understand, he did not get any answers, and that is who made the applications for Polar and the other companies, Arrow, and who was involved in the discussions. There might be memos, telephone slips and so forth.

Mr. Chairman: All right. I will try it on for size and I will take it that far. The request is that we seek from the regional offices in Timmins and Cochrane and from the district offices in Cochrane, Timmins, Kapuskasing, Hearst and Chapleau files concerning United Sawmill and the amalgamated companies, René Fontaine Holdings, or just having to do with René Fontaine and with the Hearst forest management agreement.

Mr. Morin: From?

Mr. O'Connor: From May 2.

Mr. Chairman: I will put it that way. The request is from May 2 until the present moment.

Mr. Mancini: How can we ask for any forest management agreement stuff from May 2 when it was initially started in 1983?

Mr. Chairman: I am hearing the rumblings, so I am going to ask you to put it in the form of a motion.

Mr. O'Connor: I would so move exactly what the chairman has just said.

Mr. Chairman: It appears on the record.

Mr. Treleaven: It was so well phrased by the chairman.

Mr. O'Connor: It is on the record.

Mr. Chairman: I will repeat it for you so that you have a chance to think about it. The basic request is for all files on United Sawmill, amalgamated companies, René Fontaine and Hearst Forest Management, kept by the regional office in Timmins and Cochrane and by the district offices in Cochrane, Timmins, Kapuskasing, Hearst and Chapleau. That is the motion.

Mr. Treleaven: From May 2, 1985.

Mr. O'Connor: So moved.

Mr. Chairman: From May 2, 1985, until the present. That is the motion. I will entertain a bit of debate on it.

Mr. Warner: Since I enjoy sport fishing as much as anyone else, I am inclined to support the motion, but it is a fishing expedition, which is all fine. Let it all hang out. You folks have run a little short of material, so you want to start sending civil servants out digging up stuff out of the files, but I am not exactly thrilled. I hope there are not a whole lot more fishing expeditions because it seems to that they are primarily a waste of time. However, I do not want to obstruct justice in any way. I will support the motion.

Mr. Mancini: How can we request documents that go back to only June 1985 when those documents are going to be used for some type of comparison purposes and we are not going to have available the documents prior to that time?

We have already had put to us this morning some information gathered by Mr. O'Connor that goes back to April 1, 1981. He put the information forward. He claimed that this showed some discrepancy with some previous testimony. We gave the information to the staff and they are going to respond. While we were not absolutely certain that it was appropriate or worth while for the committee to go through this process, we do want to get the information out. On a different subject matter, dealing with licences again, they want to go back only one year. Why was it necessary on one of your submissions to go back to 1981 but on your other submission to go back only 12 or 13 months?



Mr. O'Connor: In answer to that--

Mr. Chairman: Before you answer, are you for or against the motion?

Mr. Mancini: I would like to have some more discussion with Mr. O'Connor. We are at the discussion stage.

Mr. O'Connor: I have no objection whatsoever to going back to 1981. In fact, that was my first request. I modified it to relieve some of the work on the ministry officials, who will now have to, by Mr. Mancini's suggestion--

Mr. Mancini: You want a modified fishing expedition instead of a gigantic one.

Mr. O'Connor: --delve into four years rather than one year and a few months. I am content to go back to 1981. It does not matter to me at all.

12:20 p.m.

Mr. Mancini: I agree with Mr. Warner. This is just a fishing expedition. I do not think you know what you are after. You have a former minister of the crown here who was in charge of resources development, who should know a great deal about what happened over those years.

Mr. Chairman: But his ignorance is legendary.

Mr. Warner: He knows what a tree is.

Mr. Sterling: I can be tolerant and intolerant at times. I think the necessity to go back to the 1981 period was brought forward by the fact that existing defunct companies which had been amalgamated in 1981 were applying during the time Mr. Fontaine was minister. The interest in going back to that time was to try to establish that there was an increase in the cordage awarded to Mr. Fontaine's company over that time and to find out why that happened. That is the interest in going back to that particular time.

In limiting this particular request, we are dealing with the applications that were made when Mr. Fontaine was a member who was a minister-in-waiting or a minister. That is why we cut the request to the time we had.

Mr. Chairman: Any further debate on the motion?

Mr. Mancini: It is my view that the process that took place for these renewals was no different a year ago than it was five or six years ago. Mr. Sterling wants us to be able to see that there were some renewals over the past 13 months. Then I assume he will make some type of statement that says, "This should not have been done because the person was a member and a minister" when the fact is that it was done in the past almost as a routine, as long as the companies qualified and did what the ministry asked them to do.

I am afraid that if we get only part of the information, assumptions and statements will be made with documentation that seem to support those assumptions and statements when, in fact, it was a regular business procedure to have things done in this manner.

I understand Mr. Warner is going to support the motion. We can count; it will be five to four. If we are going to get this information, I want to know from the committee members whether it would be fair to go back.



Mr. Warner: Do you want more?

Mr. Mancini: We do not think any of this is worth while in terms of getting information or dealing with the inquiry. That is our basic position.

Mr. Warner: I do not know either, but I am not about to be accused of standing in the way of members of the assembly taking a look at what they think is relevant.

Mr. Mancini: I understand that. Neither do we.

Mr. Warner: That is why I am supporting the motion. But if you feel that it might be prejudicial, perhaps you want to extend the date back.

Mr. Mancini: I agree with you, Mr. Warner. We do not want to block any attempt to get information. I think we have been very good as a committee as a whole to pass motions, to get whatever information we want and to call innumerable witnesses.

Mr. Warner: If you agree with the motion to start with the material from May 2, 1985, and if after viewing it, you have concerns that this material being presented is unfair or is being dealt with in an unfair way, at that point you could request material prior to May 2, 1985. Rather than asking for all of it, which may be totally unnecessary and totally useless, why we do not at least start with that to try to reduce the amount of paperwork and office time?

Mr. Treleaven: You are making Mr. Markus--

Mr. Markus: Can I say anything--

Mr. Chairman: At your peril, but go ahead.

Mr. Markus: From what I have heard, if I am going to be asking staff to go to May 2, and possibly even earlier, they are going to do it all at once, damn it all.

Mr. Chairman: Do it all. Do I hear a friendly amendment?

Mr. Mancini: We do not need a vote on this. As long as we agree as a committee that we are seeking this information, we are not going to force a vote. If that is what we want, let us ask for the information through the chairman.

Mr. Warner: To what date?

Mr. Mancini: Mr. Markus says that no matter what, he is going to ask his staff to go back.

Mr. Markus: Given what I have been hearing here.

Interjection: But put a date on it.

Mr. Treleaven: April 1, 1981.

Mr. Mancini: I guess that would be it, Mr. Markus.

Mr. Warner: Was that 1981?

Mr. Mancini: Yes, sir.

Mr. Chairman: What a consensus-making group you are. Okay. So the agreement is that we will seek the records from April 1, 1981, on those companies. Is that agreed upon? Shake your heads up and down, if you do. Try the other way, if you do not. It appears to me that will carry.

Are there any further questions of these witnesses or any further business today? We will adjourn until tomorrow morning at 10 a.m. with Dennis Tieman, the assistant deputy minister of the mines and minerals division of the Ministry of Northern Development and Mines.

The committee adjourned at 12:26 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

WEDNESDAY, AUGUST 20, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Northern Development and Mines:

Tieman, W. D., Assistant Deputy Minister, Mines and Minerals Division

Stepinac, S., Counsel, Planning and Administration Division

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, August 20, 1986

The committee met at 10:08 a.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We will get started now. Mr. Mancini wants to make a statement.

Mr. Mancini: Yesterday, Mr. Wiseman came in and took some objection to some comments I had made as recorded in Hansard, dated Thursday, August 14, morning sitting, at page M-33. I was quoting from Hansard, dated March 1976, or some time in 1976, and was using information I had obtained from Hansard. I had made some comments in regard to the former business operation that the Wiseman family was involved in--chronic care beds, I guess. Mr. Wiseman took objection and noted that while he was the parliamentary assistant to the Minister of Health, his family operation did not receive any further chronic care beds.

I tried all yesterday afternoon and was unable to make contact with the appropriate people. However, I did promise Mr. Wiseman yesterday over the phone and in the committee that unless I could get some further information, I would withdraw the objecting phrase. Therefore, Mr. Chairman, since I have no further information today--but I will try to get more later on--in the course of trying to keep our relations somewhat amicable, I withdraw the following: "It was noted that Mr. Wiseman had a family interest in a private hospital, chronic care institution, and that the ministry had allocated beds to that institution." That was the phrase the gentleman found somewhat objectionable, so I withdraw. I am sorry I was unable to make contact with the appropriate people to get further information.

Mr. Chairman: Thank you for that. I want to draw the committee's attention to two documents, in case you are short of reading material. Exhibit 2036 is the document tabled by Mr. O'Connor yesterday. You will have copies of that now. We have another, exhibit 2037, which has two letters in it from Gary Weatherson dealing with the matter of mining grants and tax credits.

This morning we have before us, not as a witness, but as someone to advise us on matters having to do with mining grants and other things related to that part of the inquiry, Dennis Tieman, who is the assistant deputy minister of the mines and minerals division of the the Ministry of Northern Development and Mines.

Mr. Tieman, will you come forward? If you have any opening remarks you want to make, go ahead; otherwise, we will proceed with questions from the committee. To refresh the committee's memory, the motion made reference to inviting him to brief the committee on the Ontario mineral exploration program. Initially, we asked George Tough, the deputy minister, to do this briefing. We were told that Mr. Tieman is the gentleman who actually does that work. With a slight switch in emphasis, I am hoping that your interest was in getting more information rather than in a particular person. Noting that he was not called as a witness, we thought it would be appropriate to ask Mr. Tieman to do this.



Mr. Tieman: Thank you, Mr. Chairman. I have no particular comments other than to tell you that Mr. Tough is on holiday for the month of August and I am also acting deputy minister; so I am here with, I suppose, two hats on at your disposal.

Mr. Chairman: Okay.

Mr. Tieman: Perhaps I could comment that I have some material here that is a summary of the process with a copy of the act in it and some of the forms that are used. I would be happy to give that to the clerk if you wanted to use it.

Mr. O'Connor: That may become necessary or helpful during the process. It looks pretty voluminous.

Mr. Tieman: No, it is pretty thin.

Mr. Chairman: In this committee, if it does not weigh 20 pounds, we consider it nothing.

Mr. O'Connor: It may be of some assistance to pass it out. At the same time, I can perhaps do some questioning.

Thank you very much, Mr. Tieman, for being here today and assisting us in this process. Perhaps your material does the job for us, but I was going initially to ask you some questions about OMEP, how it works and where responsibility ultimately lies for the granting of grants or tax credits under that program. I see we have been presented in that regard with a letter from your ministry signed by Gary Weatherson, who is the director of the program. Is that correct?

Mr. Tieman: That is correct, since May 15. How would you like me to proceed?

Mr. O'Connor: I have not asked you a question yet, but can you very briefly explain the background of the program, its purpose, the degree to which it is funded, whom it is intended to assist and how it is intended to assist them?

Mr. Tieman: Very simply, the program was put in place in 1980 by the Ministry of Natural Resources. It was intended to stimulate mineral exploration in Ontario. That was before the advent of flow-through shares. It was a provincial attempt to attract more investment dollars to Ontario at the exploration stage. I think it has been quite successful.

The program is now running at approximately \$7 million a year, and there are somewhere between 300 and 400 programs, as they are called, under the Ontario Mineral Exploration Program Act. It has been oversubscribed for the past two or three years, and there has been a backlog in processing applications because the financial allocation had been fixed at \$7 million.

It is a very successful program. We are in the process of reviewing it to see whether it can be streamlined, both in an administrative sense and to focus more on specific kinds of exploration and on the areas where we would encourage exploration through the program.

Mr. O'Connor: Can you give us approximate numbers of applicants during the past three years and indicate the percentage or approximate numbers of successful applicants?

Mr. Tieman: I can give you those figures right back to the beginning. The number of approved and successful programs in 1981 was 94. That was the first full year. It went to 137 in 1981-82; 213 in 1982-83; 386 in 1983-84; 408 in 1984-85; and 275 in 1985-86. We have about 90 approved programs to date this year.

Mr. O'Connor: Those are approved applications. Can you approximate the numbers of applicants who have not been successful for one reason or another?

Mr. Tieman: The data the staff have given me indicate that somewhere in the neighbourhood of 85 per cent of all the applications are designated as approved programs under the act. You would have to do some arithmetic, but it is about 85 per cent. The other 15 per cent are essentially turned down at the front end of the process, which is the designation stage, mainly because they cannot demonstrate that they have the necessary financial resources to carry out the programs they have applied for.

Mr. O'Connor: Briefly, what is necessary for a company to demonstrate to be applicable? Obviously, it has to be a mining company and in the exploration process of its mining operation. What else does a company have to demonstrate?

Mr. Tieman: I am not sure of all the details, because I do not have a direct involvement. They have to disclose any funding arrangements they have, joint ventures or joint venture agreements, and they have to provide satisfactory evidence, whatever that is, that the funds are available to carry out the program. That is a front-end control so that we do not have a lot of programs in the system that are not likely to go.

There is nothing particularly challenging about the issue. It is a question of whether they can do it and whether they should be designated. The qualification criteria are not extremely rigorous. If they meet some basic criteria, they are designated and go into the program. I would have to get some help to give you the details of all the things the evaluators look for.

Mr. O'Connor: So upon receipt of an application, some assessment is made of the eligibility of the company.

Mr. Tieman: Yes.

Mr. O'Connor: Is there an appeal process from there?

10:20 a.m.

Mr. Tieman: Yes. There is an appeal process. I am not sure whether it applies at the designation stage. I do not believe so. I think the appeal process applies only once a program has been designated. It is spelled out in the act and it allows an applicant who has had a designated program to appeal right up to the Supreme Court if he feels so compelled.

Mr. O'Connor: As I understand it, it allows them, first, to appeal up through the ministry, including to the minister.

Mr. Tieman: Yes.

Mr. O'Connor: The minister has the final authority within the ministry to grant or otherwise.



Mr. Tieman: That is true.

Mr. Sterling: You said \$7 million was allocated for this program.

Mr. Tieman: Per annum, yes.

Mr. Sterling: In your position as the assistant deputy minister of mines, I guess you have basically the mines section.

Mr. Tieman: Yes, I do.

Mr. Sterling: What would be the total budget under your section?

Mr. Tieman: It is about \$30 million.

Mr. Sterling: So this is about \$7 million of \$30 million?

Mr. Tieman: Yes.

Mr. Sterling: Is it the most significant program?

Mr. Tieman: It is the only major grant program. All of the rest of the money is essentially for operating expenses.

Mr. Sterling: So it is the major program?

Mr. Tieman: Yes, it is.

Mr. Treleaven: Those are the operating expenses of the ministry?

Mr. Tieman: Of the ministry, yes; salaries, supplies, equipment and so on. The Ontario geological survey is the biggest unit within my division, and that budget comes under me as well.

Mr. O'Connor: Is there any significance to the granting of a tax credit as opposed to a grant? First, is that up to the company, or who makes that decision?

Mr. Tieman: That is not a decision per se. The program was set up as a tax credit program for companies. Individuals can get grants directly. If you apply as an individual explorationist, you are eligible immediately for a grant. If you are a company, you are initially eligible for only a tax credit. That is then processed. A certificate is issued, and there is a copy in that package I gave you. A certificate is issued by the Ontario mineral exploration program administrator.

Once they have verified that the expenditures have been within the program and they have documented the expenditures, they get a tax credit for 25 per cent of the eligible expenditures, and that is sent to the applicants. They then submit it to the Ministry of Revenue, which certifies whether they are eligible for a tax credit. If they are not, then it converts to a grant.

Mr. O'Connor: If they have not made any money, there is no use in giving them a tax credit?

Mr. Tieman: That is right, but there is a verification process through the Ministry of Revenue.



Mr. Sterling: How do you allocate the \$7 million when you are oversubscribed? Do you give a little bit to everybody or what?

Mr. Tieman: No. There is a waiting line.

Mr. Sterling: Is it first come, first served?

Mr. Tieman: They are processed in order of the documentation and the various forms that are received. The program was part of the Ministry of Natural Resources, as you will realize; it has been transferred over officially only as of April 1, 1986. As ADM of mines and minerals, I did hear some complaints about the backlog from exploration companies. There was a major effort in the past year in MNR, and we are continuing in that effort to get the backlog cleaned up. I think we are just about on top of it now.

Mr. O'Connor: Just to follow up on that, for those who do not receive their grants this year because of the oversubscription, would their applications remain on file and carry over to next year?

Mr. Tieman: Yes. The eligibility for a grant remains.

Mr. O'Connor: They would be first on the list next year?

Mr. Tieman: Yes.

Mr. O'Connor: Were you involved in the process of briefing the new minister of mines in 1985 upon his appointment?

Mr. Tieman: No, I was not. At that time, I was the chief administrative officer of the Ministry of Northern Affairs. I have been ADM of mines only since December 17, 1985.

Mr. O'Connor: We have also had a new minister since then. Have you been involved in the briefing of him?

Mr. Tieman: He has not asked for a briefing at this point.

Mr. O'Connor: He already knows everything, does he?

Mr. Tieman: I am ready to brief him any time he asks.

Mr. O'Connor: Do you know what that process involves? How is that done? In the case of Mr. Fontaine, do you know what steps would have been taken and how he would have been briefed?

Mr. Tieman: My predecessor in the Ministry of Natural Resources, who was executive co-ordinator of what was known as the mineral resources group, would have briefed him. I recall some of the briefings going on. Although I was not directly involved, my office is on the 10th floor, close to where the executive co-ordinator of minerals actually was located. I think they had about a day's briefing. I know they were lugging great thick books over from the Whitney building.

Mr. O'Connor: Who would have done that?

Mr. Tieman: Jim Finlay was the executive co-ordinator at the time. He has since retired.

Mr. O'Connor: Do you know whether Mr. Fontaine was specifically briefed with regard to OMEP?

Mr. Tieman: I would think he did get some briefing on the program, yes. I cannot imagine Mr. Finlay briefing him on the mines and minerals program without talking about OMEP.

Mr. O'Connor: Do you know whether he would have received in his minister's briefing book, which we understand all ministers do receive, background papers on the program, including lists of applicants and lists of--

Mr. Tieman: No, he would not have. You could not possibly have got that in a book.

Mr. O'Connor: I ask you that because I have excerpts from a previous minister's briefing book on this program here before me and, in dealing with the OMEP area, it seems to be quite comprehensive and does in fact include lists of applicants and the location of their property in the area and gives a status report on each application and where it stands. Is it not standard procedure with regard to each minister?

Mr. Tieman: I never received anything such as that in my briefing when I took over the job.

Mr. O'Connor: No; for ministers, I mean.

Mr. Tieman: Not in my experience.

Mr. O'Connor: In the book we have that was given to the previous minister, Mr. Harris, it indicates that an application was made by--

Mr. Mancini: May I ask a question? These briefing materials you obtained, I guess, come from former ministers. Can we know which former ministers?

Mr. O'Connor: Yes. I just mentioned Mr. Harris.

It mentions that Getty-Golden Tiger was in a joint venture and that it had property and had made an application to this program. What I am getting at is that if the same type of ministerial briefing took place with the new minister, he would then be walking around with a ministerial book indicating that Golden Tiger had applied for and received grants and credits and he would therefore be well aware of that. You do not know whether that process carried on.

Mr. Tieman: I cannot speak to that. I inherited a number of the briefing books. I can tell you that in any of the material I have, that kind of detail does not exist.

Mr. Treleaven: Excuse me. You inherited briefing books from whom?

Mr. Tieman: From my predecessor, who would have been responsible for putting briefing books together for the minister at that time.

Mr. Treleaven: Just for the ministry and people--

Mr. Tieman: The minister and the deputy minister. You will be aware that we also had a new deputy in September. Again, there was a session of



briefing using briefing books that had been prepared for the minister and for the previous deputy. There were a lot of briefing books around, but I do not recall any of them having anything other than summaries of numbers of applications and financial--

Mr. Chairman: Could you clarify something for us? You are saying it is now policy in the ministry that the minister would not get a detailed list of who is applying and what the status of a grant is.

Mr. Tieman: He would get it if he were asked, but that would not normally be the stuff of a briefing book for a minister. The material I recall on OMEP had to do with a number of policy issues that were outstanding, and there was a major number of them. There had been a major review of the program in MNR because of funding problems, administrative difficulties, concerns by the industry. It had been a major review involving Treasury, Management Board and MNR staff, the special working group.

A number of issues in the briefing book were deemed to be fairly urgent. The briefing books tend to be issue oriented, at least any I have seen over the many years I have been around here.

10:30 a.m.

Mr. Chairman: It has been my experience that ministers want to keep a bit of a hands-off relationship on the actual detail of who is getting a grant. If I make an inquiry about what has happened to a grant, they can find out for me; but they tend not to want to know that information. If somebody is getting money, it is done at arm's length from the minister's office. They would be briefed on how the program works, what the status is, how many grants have been given out and all that, but they do not want to know who is getting it. Is that what the policy of the ministry is now?

Mr. Tieman: That was the normal practice in the previous government and is, in my experience, in this one.

Mr. Chairman: So it would be a bit unusual for the minister to have in his possession an update of who is getting a grant.

Mr. Tieman: Certainly in the initial stages. It may well be that at some point a minister would ask for details once he assumed office, became familiar with the programs, began to get a better sense of them and asked questions about how they are administered. The administration is very arm's length. In particular, in this case it has been arm's length.

You will see in the regulations a total delegation of authority. All of the minister's authority is delegated to the director and most of it to the OMEP administrator. As I understand it, in the Ministry of Natural Resources, certainly when it transferred to us, it was an arm's-length administration. My predecessor--and I can say the same in my case--had never seen any of the forms or had anything to do with it other than the hiring and firing of staff and the general administration until last week. I have had to do some homework to find out more about the program myself, because it does run on an arm's-length basis.

Mr. Chairman: Terry, do you want to continue?

Mr. O'Connor: Yes. I raised it because the gentleman indicated that had not been the practice. All this material did was list everybody who is--



Mr. O'Connor: Do you know whether Mr. Fontaine was specifically briefed with regard to OMEP?

Mr. Tieman: I would think he did get some briefing on the program, yes. I cannot imagine Mr. Finlay briefing him on the mines and minerals program without talking about OMEP.

Mr. O'Connor: Do you know whether he would have received in his minister's briefing book, which we understand all ministers do receive, background papers on the program, including lists of applicants and lists of--

Mr. Tieman: No, he would not have. You could not possibly have got that in a book.

Mr. O'Connor: I ask you that because I have excerpts from a previous minister's briefing book on this program here before me and, in dealing with the OMEP area, it seems to be quite comprehensive and does in fact include lists of applicants and the location of their property in the area and gives a status report on each application and where it stands. Is it not standard procedure with regard to each minister?

Mr. Tieman: I never received anything such as that in my briefing when I took over the job.

Mr. O'Connor: No; for ministers, I mean.

Mr. Tieman: Not in my experience.

Mr. O'Connor: In the book we have that was given to the previous minister, Mr. Harris, it indicates that an application was made by--

Mr. Mancini: May I ask a question? These briefing materials you obtained, I guess, come from former ministers. Can we know which former ministers?

Mr. O'Connor: Yes. I just mentioned Mr. Harris.

It mentions that Getty-Golden Tiger was in a joint venture and that it had property and had made an application to this program. What I am getting at is that if the same type of ministerial briefing took place with the new minister, he would then be walking around with a ministerial book indicating that Golden Tiger had applied for and received grants and credits and he would therefore be well aware of that. You do not know whether that process carried on.

Mr. Tieman: I cannot speak to that. I inherited a number of the briefing books. I can tell you that in any of the material I have, that kind of detail does not exist.

Mr. Treleaven: Excuse me. You inherited briefing books from whom?

Mr. Tieman: From my predecessor, who would have been responsible for putting briefing books together for the minister at that time.

Mr. Treleaven: Just for the ministry and people--

Mr. Tieman: The minister and the deputy minister. You will be aware that we also had a new deputy in September. Again, there was a session of

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Mr. O'Connor: Yes. I raised it because the gentleman indicated that had not been the practice. All this material did was list everybody who is--



Mr. Chairman: Would you be interested in sharing that with the other members of the committee, since you quoted from it? Maybe we could take a look at the copies, if you want to pass it around. If you hand that to the clerk, he will make some copies and hand them out.

Mr. O'Connor: Sure. What it is, for everyone's assistance, is the standard three-page or four-page background paper on OMEP, together with a list of all the companies that have applied and are in process. Perhaps we could give the witness one too. Look particularly at the last page, sir; it appears to be page 4 of four pages, although there is only one there.

That kind of information--which simply names the potential ore body, indicates whether they have had an OMEP grant, the location of the property, the area and the status--is that not information that would be regularly and generally given to a minister?

Mr. Tieman: No. That is an incomplete list, by the way.

Mr. O'Connor: That is page 4 of four, as I have indicated and as you can see from the bottom.

Mr. Tieman: Normally, a briefing book would also show where the holes had been punched, because they are always in looseleaf form, and I do not see any. This looks like a supplementary briefing note to me, in my experience.

Mr. O'Connor: The original has the holes, as you can see, right there. I guess they did not show up on the photostat machine.

Mr. Tieman: This looks like the daily issues book rather than the standard briefing book for new ministers. It says, "House Issues," and that is a book that is maintained normally on a daily basis in anticipation of questions that might arise in the House or issues that the minister should be aware of for one reason or another. You are talking about briefing books. I was talking about briefing books for a new minister.

Mr. O'Connor: That is where we were at odds. I assumed they were one and the same thing.

Mr. Tieman: No. This is a quite different briefing book. This is the daily House issues briefing book. I am sure you have seen ministers lugging them in. Mr. Sterling has--

Mr. O'Connor: That is a different book or set of books from what you refer to, which is the briefing book that is given to a minister upon his becoming a minister. Is that correct?

Mr. Tieman: That is quite true. Those do tend to be more detailed. They change every day, and issues come in and out of the book. I am not sure that is what this is, but it certainly has every evidence of being that.

Mr. O'Connor: You are correct. The heading indicates it is House issues briefing notes. Do you become involved in the preparation of those?

Mr. Tieman: My staff do. Generally, I provide direction for issues that require briefing. They will originate some on their own. Sometimes the minister will ask for certain kinds of material to be available. I do have some general responsibility.



Mr. O'Connor: Will you agree that the minister's House briefing book, including the present minister's, would include information such as the lists of applicants and what appears to be here?

Mr. Tieman: To the best of my knowledge, none of that detail has ever been provided to Mr. Fontaine, either in the original briefing books or in the House issues book.

Mr. Mancini: It is written at the top of the document, "Minister's Briefing Book, May 1985." Then the type says, "House Issues Briefing." Was this a mistake at the top of the page, or is there some confusion? It is important for us to know whether in fact this is part of the total minister's briefing book or something separate.

Mr. O'Connor: I think I can explain that. The mistake arises from my inexperience, never having been a minister and being a new member, in that I was assuming the briefing book and the House briefing book were one and the same thing, but as has been explained by the witness, they are substantially different documents. I did not realize that.

Mr. Morin: What you are saying is that when you referred to the minister's briefing book, you erred?

Mr. O'Connor: I erred in that I thought his House briefing book was his briefing book, but I now understand there are two different documents; one is a House briefing book, and one is a briefing book.

Mr. Chairman: To make the distinction, in preparing background material for ministers' use during question period, things as specific as this might go in. If the minister thought he was going to be asked a question on a particular application, or if somebody had asked on a previous occasion, the staff would get this information to the minister.

Are we correct in identifying--there is a bit of an obligation to do that--this material which has now been circulated as material Mr. O'Connor got from Mr. Harris and constituted part of the House briefing materials presented to him when he was the minister? Is that right?

Mr. O'Connor: That is correct.

Mr. Mancini: The only comment I will make on that is, from what I understand and from what the gentleman has told us, the House issues briefing book--I am sorry Norm is not here to help us--contains things that would be given to a minister on a daily basis because someone thought he needed them or because he requested them.

Mr. Tieman: That is exactly correct.

Mr. Mancini: If you are telling us that you do not usually give this information, we can assume--there was a possibility anyway--that this information was requested.

Mr. Tieman: With all due respect, I do not think that is fair. The issues that go in the book arise from a number of sources. Obviously, people read the Globe and Mail every morning, and staff very often tend to anticipate, on behalf of their minister, the issues that are going to come up. The practice, because the Globe used to be the first paper out--it had been the Globe, but now the Star as well--

Interjections.

Mr. Chairman: Listen, we are the politicians here. Leave that kind of garbage to us.

Mr. Tieman: You got me into this.

They will arise from staff. The minister's personal staff will sometimes ask for issues, or the minister will. They come from a variety of sources. Normally, they are put together before lunch, and the minister is briefed before he goes into the House. Those issues constantly come and go. It is an active book. Issues can come from almost any source.

10:40 a.m.

Mr. Mancini: I find it difficult to understand why, for a minister's daily briefing book or House notes--I guess you people do a pretty thorough job, because there seems to be a lot of information here--he would need the complete list of all this information.

Mr. Tieman: We have a policy in our ministry that the issues have to go on one page.

Mr. O'Connor: May I carry on? We had received from the Ministry of Natural Resources some documentary material, particularly a file with respect to an OMEP grant. I can give you the number.

Mr. Morin: Can we have a copy?

Mr. O'Connor: We can distribute the entire file to everyone. It is OMEP file OM-84-4-C-166. I think the 166 is the relevant part of it. It is with respect to and dealing with an application on behalf of Golden Tiger Mining Exploration last year. I do not believe that is part of our exhibits.

Mr. Tieman: It was my understanding that 166 was provided to the committee.

Mr. O'Connor: It may have been. It was also provided to us as a request from our caucus.

Mr. Tieman: Do you have the whole file on that?

Mr. O'Connor: Yes, we do. I want to ask you some questions about that file. It appears that Golden Tiger received a tax credit--and the application for same is in the file--dated May 27, 1985? Is that correct?

Mr. Tieman: Yes.

Mr. O'Connor: For \$10,241?

Mr. Tieman: Yes.

Mr. O'Connor: And that on June 24, 1985, approximately a month later, that tax credit was changed to a grant?

Mr. Tieman: Yes.

Mr. O'Connor: It also appears that in filing its application for the tax credit in May--I refer to the last page in that bundle, the one entitled



"Management of the Company"--Mr. Fontaine appears as a director of the company. Is that correct?

Mr. Tieman: This is the first time I have seen this file; so I have to--

Mr. O'Connor: It is the last page.

Mr. Tieman: Is this your material, or is this our material?

Mr. O'Connor: It is your material.

Mr. Tieman: Oh, yes.

Mr. O'Connor: In May 1985, which is after the election but before the new government took office, an application was made and Mr. Fontaine is shown as a director. He then resigned as a director, or he submitted his resignation on June 28 by sending a letter to Paul Martin. Is that correct? That letter, as we have heard from him--you may not know this--was not actually filed with the Ministry of Consumer and Corporation Relations until the following year, I believe, but he indicates that is when he resigned. My point is that the ministry therefore would have been aware that Mr. Fontaine was a director on both May 27 and June 24. Is that correct?

Mr. Tieman: It certainly appears to be.

Mr. O'Connor: On his appointment on June 26 as your minister, do you have any information that he advised anybody in the ministry--you or any of the staff--that he was a director of this company and that he held shares in the company and that it had applied for and recently received an OMEP grant?

Mr. Tieman: I am not aware of that. I would have to go back and ask everybody that question to give you a definitive answer.

Mr. O'Connor: Of course, you were not in the ministry at the time, were you?

Mr. Tieman: No.

Mr. O'Connor: OMEP was under mines at that time? No, it was under MNR.

Mr. Tieman: It was under MNR.

Mr. O'Connor: Were you in charge at that time?

Mr. Tieman: No. I was in Northern Affairs.

Mr. O'Connor: Do you know whether any of the staff were aware of this connection at that time?

Mr. Tieman: I really cannot answer that. I would like to, if I could.

Mr. Chairman: May I stick my nose in? I am a little confused. I am at a disadvantage because the papers I have in front of me may be in order or may be selective pages, but it appears to me that Mr. O'Connor has tabled a document in which the principals of Golden Tiger did declare who the president and directors of the company were.



In that document, tabled well before that date in 1984, they had identified Mr. Fontaine as being a director. The ministry would have known that Mr. Fontaine was a director of that company a year or more in advance. From the company's point of view, then, it seems to me that it provided you with the names of the directors and officers.

I am at a disadvantage because these papers have been put together. I cannot say whether they are in order or whether that appears from some other document, but it does seem that they were filed at roughly the same time. Therefore, you were notified. Whether you were aware of it is another question.

Mr. O'Connor: That is my point, Mr. Chairman. The existence of this connection was certainly on file with the ministry, specifically its Ontario mineral exploration program office.

That being the case, did Mr. Fontaine tell anybody in the ministry of this connection? Was it brought to anybody's attention? Did anybody do anything about it? He appears not to have advised the government as such by filing his notice of resignation with the corporations branch until well after this date.

Mr. Tieman: I have a summary of that file, which shows, I believe, that it was signed off by the then director, Mr. Rachamalla, on June 24. That would be the end of his administrative involvement with that.

Mr. O'Connor: The file certainly does not indicate that Mr. Fontaine advised anybody, wrote or spoke to anybody. In fairness to him, would there be any other files in which he might have revealed his interest in this company?

Mr. Tieman: Not to my knowledge, but then I am not sure we have exhaustively gone through all the hundreds and hundreds of files. I have no knowledge of such.

Mr. O'Connor: For several days, we have heard evidence of the process that took place with new ministers in disclosing their interests and various shares. We have heard from Ms. Eberts that, upon the completion of a form, she wrote a letter to the minister and filed copies of it with the Premier's office. She had discussions with personnel in the Premier's office, although she was not exactly certain as to what exactly was said with respect to Mr. Fontaine or when.

Did anyone from the Premier's office contact you, indicating that Mr. Fontaine had Golden Tiger shares and had been told to sell them, and advising you of potential conflict-of-interest difficulties that might arise?

Mr. Tieman: You have to recall that I was not appointed until December 17, but certainly it was never drawn to my attention after that date. I have no idea, but I suspect that Mr. Finlay, my predecessor, would not have been aware of it.

Mr. Sterling: Is there anybody other than Mr. Finlay who could give us evidence in that regard?

Mr. Tieman: I believe the one person who provides the continuity through all the years of OMEP is Mr. Rachamalla. He was both the mine assessor and director of OMEP. Those were combined functions until the mining tax function was transferred to the Ministry of Revenue on May 15 this year.

He was the director through all of that and would perhaps be the person who would have more personal knowledge about the entire program and the period you are inquiring about.

Mr. O'Connor: You indicated that you came on stream in December.

Mr. Tieman: Yes.

Mr. O'Connor: I cannot ask you about events prior to that date, but from the date you came on stream, did you have occasion to speak with or brief Mr. Fontaine on matters specifically with regard to OMEP?

Mr. Tieman: Only about a number of issues and problems associated with the program and on some of the complaints about delays, but never in terms of any particular application. I was not aware of any particular application being in the system.

As I mentioned earlier, there was not very much of an arm's-length arrangement. Staff handling this were in the Whitney building, and our offices are several blocks away. It is handled separately out of the Whitney building. The communication is quite limited.

10:50-a.m.

The only discussions I can recall having with Mr. Fontaine were essentially about policy issues having to do with administrative improvements, whether the new government was prepared to consider putting additional funds in the program, and discussions around some terms of reference for a committee, which is known as the Thompson committee, that had been set up to review junior mine financing. We discussed some focus in those terms of reference as it relates to seeking advice from that committee in terms of improvements in the program.

As best my memory serves me, that is the sum total of my discussions with Mr. Fontaine about OMEP.

Mr. Sterling: At that time did he indicate to you that he had any interest in Golden Tiger?

Mr. Tieman: No.

Mr. Sterling: You were unaware that Mr. Fontaine had Golden Tiger shares until it was divulged in the House?

Mr. Tieman: That was the first I heard about it.

Mr. O'Connor: The record indicates that he gave public speeches on mining matters on October 9, October 24, October 25, November 26 and December 4 to various mining groups around the province. He would have been briefed in connection with those speeches, I take it. Were you ever involved in that process?

Mr. Tieman: No. Again, I was not appointed until December; I am sorry.

Mr. O'Connor: You were not there. Who would have been the person who would have assisted him in preparing the material for that and briefed him, specifically again with regard to OMEP? It is not of great concern if they were briefing him on other matters, obviously.



Mr. Tieman: My predecessor would be generally involved in organizing the material and briefings, but I would suspect he probably would have called on Mr. Rachamalla to do the briefing if it was OMEP.

Mr. O'Connor: You never had a discussion about or any indication from Mr. Fontaine of interest, shall we say, in a company called Golden Tiger?

Mr. Tieman: Never.

Mr. O'Connor: If I could just review one more area, I will leave it.

We have been advised, as a result of our committee passing a motion somewhat in this regard, that the current applications by Golden Tiger have been put on hold, shall we say. As of this morning, we have letters indicating that both of the two pending grants have been on hold. When we got into that area ourselves here, we were advised that was already being done by the ministry. Can you tell us how that came about prior to our request; whose decision that was?

Mr. Tieman: It was ultimately mine. I cannot recall whether it came to us through the ministry solicitor asking me the question or whether it was Gary Weatherston, who had been newly appointed on May 15 to handle the OMEP program as part of his responsibilities as director of the mineral resources branch.

I cannot remember which of those gentlemen raised it with me, but I indicated that I felt it would be prudent to hold those applications--I do not think we have any power to not deal with them--until such time as either the committee or the new minister directed us to let the process proceed. It seemed to me sensible.

Mr. O'Connor: Was there any discussion with anybody in the Premier's office in that regard?

Mr. Tieman: No. Not at all.

Mr. O'Connor: Were any of the political people involved?

Mr. Tieman: No.

Mr. O'Connor: It was entirely your decision?

Mr. Tieman: Yes.

Mr. O'Connor: Did you feel it was your position as a civil servant to take it upon yourself to make such a political decision?

Mr. Tieman: I did not consider it a political decision. I considered it a prudent and sensible decision as the senior official responsible.

Mr. O'Connor: What authority or power do you think you have to deal with a grant in that manner?

Mr. Mancini: Mr. Chairman, I object to that kind of question, asking our witness what power or authority he has about political questions. The gentleman stated very clearly that he felt it would be prudent for him not to proceed, and to go over and try to implicate the witness for making political decisions is unfair.



Mr. Chairman: I did not read the question quite that way. It is my understanding it would be relatively standard procedure for an administrator of a fund such as this, that if an application was put in question, it would not be untoward. It strikes me it would be the norm that he would put that on hold until those questions had been raised. Maybe I could get you to respond to that.

Mr. Tieman: First, this is without precedent in my experience. I simply made a judgement call. It seemed to me the cautious, prudent thing was to put a hold on that until we had more appropriate advice, either from the committee or from the acting minister.

Mr. Chairman: To make the distinction, you are not saying they will not get the grant.

Mr. Tieman: Not at all.

Mr. Chairman: You are saying the process will be held up while this legislative inquiry is under way.

Mr. Tieman: It is sitting there ready to go whenever I get appropriate direction from whomever; so I do not consider that at all a political decision. I consider that a commonsense decision on my part. I have no idea what authority I have to make that decision, other than my responsibilities to direct my staff, who have responsibility under the act. It is the first occasion I have had anything to do with the Ontario mineral exploration program, as a matter of fact.

Mr. Treleaven: You said it is ready to be released when you get instructions from whomever. Who would whomever be?

Mr. Tieman: It would normally be the minister. Now it would be the acting minister. I have not had the opportunity to discuss it with him. I took that decision upon myself, and when I have an opportunity to review it with him, I will.

Mr. O'Connor: To follow that up, you told us earlier there is no discretion under this program.

Mr. Tieman: That is true.

Mr. O'Connor: They qualify, and ultimately, whatever we say as a committee, you may not have any choice whatsoever but to make the grants. Is that correct?

Mr. Tieman: Certainly if the company brings in appeal processing and if the decision were to persist, as it were, for some time longer to the point where there was an appeal, I guess I would be called to court and hammered around. I hope there will be some clear direction before it comes to that sort of situation.

Mr. O'Connor: You have indicated, though, the appeal process first goes through the ministry to the minister, and the minister would then make a decision or otherwise, following which the applicant can go to the court system if he is not happy.

Mr. Tieman: Again, that would probably be without precedent. To the best I have been able to find out, an appeal has never gone as far as the minister.

Mr. O'Connor: As a matter of interest, how is an appeal processed? Is a principal of the company usually involved in coming before somebody in the ministry?

Mr. Tieman: Again, I have trouble dealing with that, because we have not had one and I have not had a chance to put my mind around it.

Mr. O'Connor: We would like you to require Mr. Martin's attendance before you here in Toronto to appeal that decision.

Mr. Tieman: Then I will consult with our legal staff and find out what the procedures are. Quite frankly, I have not put my mind around that yet.

Mr. O'Connor: Thank you for your co-operation, Mr. Tieman.

Mr. Warner: First, I think you made the right decision. I know it was perhaps a bold move on your part, but you are to be congratulated on taking some leadership. As a member of the committee, I was quite pleased when I learned that the ministry had already decided it was going to hold back those funds. You are to be congratulated on what you did.

Can I go back to the grant and the tax credit? Can I assume it is common for companies to receive tax credits through this program?

Mr. Tieman: It is almost exclusively a tax credit program. I believe in the entire history of the program, there has been only-- I am sorry. If it is a company, the only thing it can get initially is a tax credit. It is only in the case of individuals that there are direct grants provided. The bulk of them are tax credits. I have the figures here somewhere. In 1985-86, the direct grants were \$1.4 million and the tax conversions were \$6.5 million. That will give you some idea of the ratio.

11 a.m.

Mr. Warner: Would there be a reason not to convert from the tax credit to the grant?

Mr. Tieman: They are required, as I understand it, if they get a tax credit to apply it to their corporation taxes. I believe in the history of the program there have only been about 600 of the tax credits that have actually been used against taxes payable. Then the balance has come back into the system, and they have applied for a grant after they have got a certification from the Ministry of Revenue that they do not qualify, that they have no taxes payable; therefore, a credit is of no value.

Mr. Warner: Oh, I see.

Mr. Tieman: Most of the companies are junior exploration companies and do not have payable taxes. If I might comment, that is one of the areas being reviewed. A recent junior mining financing report will be coming out in the next few days strongly recommending that we move away from the tax credit program.

Mr. Warner: One of the documents that was submitted says--and I am trying to find the date on this thing; it is the one that has Golden Tiger on it: "Having received certificate of entitlement to tax credit number 85-615," etc., "hereby make application for payment of a grant equal to the unused portion of tax credit in the amount of \$10,241.00."



That was from the ministry, but I do not know the date there. Is that down at the bottom? Is that what that is supposed to say? 1985? This third page. This one.

Mr. Chairman: The one that is identified as form 4 at the top?

Mr. Warner: Yes

Mr. Tieman: That is the date. The signature is Mr. Rachamalla, who was then the director of OMEP. He signed it and dated it.

Mr. Warner: On June 24. Oh, I see. Do we know when the application for the tax credit would have come in from Golden Tiger? I note there is a May 29 letter from the Ministry of Natural Resources indicating the tax credit application has been approved, but I do not know when it was sent in.

Mr. Tieman: I have a summary here. I do not have the file.

Mr. Chairman: That would be helpful, because we have been handed a package of documents that has been edited and so we are unable to determine when the application was made. If you have that information, that would assist us a bit.

Mr. Tieman: It is in the other file you received, but I will give you the summary here. The application was received on November 27, 1984, as an application for a grant and/or tax credit. The eligible expenses, according to my summary, were \$40,962. It was evaluated over the period between November and May 7. The evaluator, a chap by the name of Huggins, signed an evaluation sheet for \$10,241. I am not sure--

Mr. Warner: What is the date when that--

Mr. Tieman: The evaluation was done on May 7. It was then submitted to Mr. Rachamalla on May 27. The form was sent out on May 29. An application came back for a grant in lieu of a tax credit on June 7. The Ministry of Revenue approved it on June 14, and Mr. Rachamalla approved the grant on June 24.

Mr. Warner: What was the date when Mr. Fontaine entered the cabinet?

Mr. Chairman: June 26.

Mr. Warner: To your knowledge, in any of your notes, was there anything unusual about either the application for the tax credit or the application to convert it to a grant?

Mr. Tieman: No. There is nothing unusual that I have been able to discern in looking at the material. You will notice there was a considerable delay, which goes back to the backlog I mentioned earlier, between the time the application came in, November 27, and the time it was evaluated, May 7. I do not have the file, but there may have been some material missing in the application. Very often, there is correspondence back and forth, such as a request for additional receipts or verification of one kind or another.

Conventionally, as I understand it, it is at least a couple of months before it finally gets evaluated and all the documentation is in place and it is signed off. This was a little longer, but I believe that was in the period when there was a considerable backlog of applications and the staff was struggling with them.



Mr. Warner: Do you know whether this company, Golden Tiger, had applied for tax credits in previous years?

Mr. Tieman: I am told this is the first application in the system under the name Golden Tiger.

Mr. Warner: We do know, however, from the application for the tax credits through to the finalization of the grants, all of that took place prior to Mr. Fontaine's entering the cabinet?

Mr. Tieman: Yes.

Mr. Warner: The process began before he was elected and was continued after he was elected but prior to the change of government.

Mr. Bossy: It says for the year 1984, September 30, there is an application for a grant in lieu of taxes--forgive me, Mr. Chairman--it says right on that application--

Mr. Chairman: The fiscal year is--

Interjections.

Mr. Warner: Yes, but do not get confused--

Mr. Bossy: It was certified on June 14, so the application--he just reiterated the fact that there was a backlog--to be certified on June 14, and having dealt with the backlog, that must have been submitted immediately after their fiscal year or their tax year.

Mr. Warner: The transfer from credit to grant occurred after the election but before--yes, May 7. The election was on May 2, and the change from one to the other took place between May 7 and May 27 but prior to Mr. Fontaine's entering the cabinet.

To your knowledge, throughout this whole process, was there any direct contact by Mr. Fontaine with your officials with respect to either the tax credit or the grant?

Mr. Tieman: I am assured there was no contact at all through that period.

Mr. Warner: To your knowledge, this was a routine matter.

Mr. Tieman: It certainly looks very routine from the records. If I could comment, the actual evaluation was May 7. That is normally the final administrative act on the part of the evaluator, and it would take a couple of weeks before it would go to Mr. Rachamalla to sign the papers and so on, but the evaluation was done on May 7. That was when the administrator signed off, essentially, when he was satisfied of the eligibility.

Mr. Warner: One last question. To go back to the first item I raised, if you withheld any grants from Golden Tiger, would it have to be Mr. Martin who would launch the appeal?

Mr. Tieman: I would think so.

Mr. Warner: Would he have to show up? As long as you withhold the grant, the only way he is going to get the money out is if he shows up. Right? So, hang on to the money before this turkey shows up.

Mr. Treleaven: He might get a lawyer to come in--

Mr. Chairman: Or someone acting on his behalf.

Mr. Tieman: Maybe you will all be in court together with me.

Mr. Warner: Thank you. You have been extremely helpful.

11:10 a.m.

Mr. Mancini: I want to get back to the document presented by Mr. O'Connor that states, "Minister's Briefing Book, May 1985." Under the official type it states, "House Issues Briefing Note." You are in a different ministry, but would we be able to find out who prepared this document and who asked for it to be prepared?

Mr. Tieman: I would be quite surprised if you could find out either of those. The practice varies a bit from ministry to ministry. Some ministries require some initials or something on the prepared material, and others do not. I have no idea, but I suspect that would be very hard to track back.

Mr. Mancini: Did I understand you correctly when you said that detailed information such as this would be unusual for a minister's daily House issues briefing note?

Mr. Tieman: Yes. Generally, that would be unusual. Unless there was some particular concern that had been raised by the minister or staff in the minister's office, I would not expect that type of detail to be initiated or sent to the minister without a specific request. Generally, ministers do not ask for voluminous amounts of material, because they already have more paper than they can cope with. As I mentioned earlier, the general direction in our ministry is to keep it down to a page.

Again, I am speaking only from my experience in other ministries, and I cannot comment on what the practice was while Mr. Harris was the minister there. However, from my general experience in this, I would not expect to see that much detail unless it was requested.

Mr. Chairman: Could I intervene? I have been having difficulties with this document. The source of the material of the other documents that were tabled is really apparent; there is ministry stationery used, there is a signature on it and there are dates. Quite frankly, the reason I am having difficulty with this document is that Mr. O'Connor has identified it as excerpts from Mr. Harris's briefing book, but the pages of the document have clearly been printed on three different typewriters and they are not numbered. There is some question in my mind about sequence, the source is not identified, nor is the author of the document identified.

I am happy to proceed on the basis that Mr. O'Connor says these were taken from Mr. Harris's briefing books when he was the minister. I will accept that at face value, but I sure would not want to be in court with this type of stuff. We can pursue this line of questioning, but it is reasonable to assume some editing was done, and we are unable to identify the actual source of who prepared the information. I do not doubt the validity of it; I just want to put those cautions on it.

Mr. Mancini: I asked these questions because there may be some protocol on what can or cannot be done with ministers' briefing documents.



The last page is a list of some of the companies involved with the mineral exploration program. From your earlier comments, you said this was an uncomplete list.

Mr. Tieman: I think that was acknowledged.

Mr. O'Connor: In fairness, I pointed out that it was incomplete. It is one of four pages. The other three were not relevant, so we did not include them.

Mr. Chairman: That is my problem. When we ask for documents from the ministries, if they presented to us what they thought was relevant, we would be very upset with that. We would demand that complete documentation be provided, and we would be the judge of what was relevant.

I do not have any real problem with Mr. O'Connor presenting this to the committee for your information; I am just trying to put some caution flags out here. I will admit to it myself. On occasion I have gone through a document and pulled from it things that made a good political argument from my point of view. I am accepting that Mr. O'Connor has an equal right to do the same thing. It may caution others: When you read this document, read it carefully.

I was taken aback by the obvious thing that three different typewriters were used to prepare this. That indicates to me that some editing occurred. There is the fact that one page of the program was inserted and the other three were excluded. Read it, but read it as a document that is presented to a committee from one point of view. That is all.

Mr. O'Connor: May I comment on the typewriter difference? The witness has indicated that these books are prepared by a variety of sources and personnel in the ministries. Perhaps that accounts for the different typewriters.

Mr. Chairman: Yes, and I personally believe in Santa Claus, but not everybody does.

Mr. O'Connor: They are not prepared in total by the same person.

Mr. Chairman: We are all free to believe whatever we want.

Mr. O'Connor: If there is some difficulty, I am prepared to withdraw the document.

Mr. Chairman: No. This a cute manoeuvre here. You do not present documents and then withdraw them. You got it in front of the committee--

Mr. O'Connor: Sure, and I am content to leave it there. I only presented it as an example of what used to be done. I asked the witness if that continued and he said no, it does not.

Mr. Chairman: Yes, that is fine.

Mr. O'Connor: It is not the same under the new ministry, and I was prepared to leave it. There is nothing surreptitious or underhanded about this. It is an example of how things used to be done, and I just wondered if it was still done, because if it were, it would indicate Mr. Fontaine had knowledge of Golden Tiger making an application.



Mr. Chairman: Yes.

Mr. O'Connor: It is a simple, straightforward procedure.

Mr. Chairman: Sure it is.

Mr. O'Connor: If it is not done this way, perhaps he did not have knowledge walking around with him daily. I am content to accept that.

Mr. Chairman: Good.

Mr. Mancini: Because of the confusion and what may be some irregularity in the making public of what I thought to be private cabinet material, I would like to make a motion that we call Mr. Harris before the committee and ask Mr. Harris to give us a formal statement as to whether this information did come from his briefing documents.

Mr. Chairman: Okay. I am going to ask you to withhold your motion until we dispense with the morning's business. At the end of the morning if you want to make such a motion--

Mr. Mancini: Thank you.

Mr. Morin: Just one question.

Mr. Chairman: All right.

Mr. Morin: Would you consider this as a confidential document?

Mr. Tieman: Not particularly.

Mr. Morin: Is there any information in there about the mines that could affect the stock market, for instance? Is there any information that somebody would like to know and that would make them say, for instance, "I will not buy that stock"? What I am getting at is whether this information should be released publicly. That is what I am asking.

Mr. Chairman: It is a little late to be asking that question.

Mr. Morin: I know, but still, you just gave me the document. I am asking, is this a confidential document? Should that document be presented to the committee, or is this information that was for the eyes of the minister only?

Mr. Tieman: I am just looking at it now. It was probably only for the minister, but I do not think it would have been excessively confidential, if I can put it that way. I was trying to avoid looking at it, but I see it is not an OMEP summary. It is a summary of mineral development as of January 1984 in Ontario and coincidentally they have marked in which programs were under OMEP.

In looking down there, I see Kidd Creek Mines and LAC Minerals, and those are not OMEP applications. Essentially, the one sheet I have is a categorization, and I recognize there may be other sheets that would suggest it is something different, but it has categorized ore bodies and it lists a number of them. Not surprisingly, they all have applications in for OMEP. Then it is another list of mines that are under potential development, and some of them have OMEP and some of them do not. That kind of information is treated

with some care within our ministry, but it is not treated as or stamped "superconfidential."

11:20 a.m.

Mr. Mancini: Would it be restricted circulation?

Mr. Tieman: Yes, it would.

I feel a bit reluctant to comment on--

Mr. Sterling: I took a survey. It was a January 1984 document and was in Mr. Harris's briefing book in May or whatever. I assume you present that to the minister every so often so he knows where the whole mining game is at any particular time.

Mr. Tieman: Yes. Without seeing the rest of the pages and having a sense--I am speaking only to the one page that is there--I am a bit apprehensive of suggesting anything I might say is totally definitive, but I would generally agree with you, Mr. Sterling.

Mr. Sterling: Have you presented Mr. Fontaine with a similar document, maybe not in the same format, but the same kind of document?

Mr. Tieman: No, I have not. I do have some reports of my own that are in a different format but are somewhat similar in terms of the type of information. You will not be surprised to know that we have a very active interest in how certain developments are progressing. We do get information from our field offices on a fairly regular basis, but I have not had an opportunity and have not been asked by Mr. Fontaine to provide that kind of information.

Mr. Sterling: Did you have a chance to review the files of the OMEP applications by Golden Tiger? I think there were three recent ones.

Mr. Tieman: Yes. I have not looked at them, I have not thumbed through them, but I had staff as late as yesterday explain to me what was in them and make a summary so I could bring it here--dates, the process, what was approved and when--but I have not actually looked at all the various correspondence, documentation and so on.

Mr. Sterling: They were supplied in general to the committee. Maybe I could pass to you the selected documents I have taken from that file, just for reference. Any member of the committee can see the same documents I am looking at, or he can look in the general file.

Mr. Chairman: Will you identify the documents you are using?

Mr. Sterling: These documents are taken from the OMEP files that were provided to us by the Ministry of Northern Development and Mines. All the documents are in the files that were given to us under exhibit number--Mr. Eichmanis, can you help me?

Mr. Eichmanis: It is OM-85-4-C-233.

Mr. Sterling: Was that file reproduced for each member of the committee?



Mr. Eichmanis: Yes. It is in a folder like this.

Mr. Sterling: What is the exhibit number?

Mr. Eichmanis: I just gave it to you.

Mr. Sterling: Okay; that is fine. Everybody has a copy of these documents in one form or another.

The third page of the package I stapled together is the application form for designation by Golden Tiger Mining Exploration Co. Inc. Under number 8, you have to attach a list showing the position, title and name of the directors. Then I refer you to the very last page of that package. Unless you had your file here, it would be hard for you to confirm that it was page 27 of the application form.

Mr. Tieman: One of my staff has the file here if we need to refer to it.

Mr. Sterling: From that, you can see, "The following are the names and municipalities of residence." Evidently, Mr. Martin, who applied for this designation, had a standard sheet showing who the directors were and had been, and then scratched on it "resigned to become mines minister." My photocopy is cut off a little bit, so I cannot see the "er" in "minister," but I presume that is the case. To whom would that application go? I see it was received by the chief director on November 27, 1985.

Mr. Tieman: That would go straight to the Ontario mineral exploration program office. I should go back to those process notes I made for you, but the director would not see it. It would be logged into the system. The application would be assigned to a staff person to review very quickly, acknowledge, indicate if there was information missing and request further information before it would move through the system.

Mr. Sterling: You do not know when that file was considered.

Mr. Tieman: I have a summary here. It appears to have been considered. According to my notes, it was received on November 27 and was approved by the director as a designated program on March 13, 1986. Mr. Rachamalla approved that on March 13. He simply approved it as an eligible program and defined the eligible expenses, subject to their following the rest of the procedures, spending money and all the other things that go with the program.

Mr. Sterling: I think you indicated to us earlier that the approval for designation requires the applicant to show that he is financially viable.

Mr. Tieman: Yes.

Mr. Sterling: That is part of the process going on at that time.

Mr. Tieman: Yes.

Mr. Sterling: Were there any questions about the financial viability of Golden Tiger placed to the applicant? Was he required to show more than he had shown in the application?



Mr. Tieman: Not to my knowledge, but I would have to ask my staff whether there was any particular correspondence or anything in the file between November 27 and March 12. If you want me to pursue that, I will have to ask somebody to dig out the file. It is here.

Mr. Sterling: I may ask you to pursue that. Were you aware of Golden Tiger's trying to show its financial viability either on this grant or on any other grant? Do you have any knowledge of that?

Mr. Tieman: Sir, I had never heard of Golden Tiger until you did.

Mr. Sterling: I wondered, because of both my peaked interest and, I suspect, your peaked interest in this mining company at this time, whether you might have inquired into the background of it or reviewed the files.

Mr. Tieman: Not personally. I have asked our solicitor and the current director to look at the files and tell me whether there is anything unusual. They have assured me there is nothing unusual about any of the processing of any of the files we have on hand.

Mr. Sterling: Do you think the interest of any official in the ministry who came across this particular document and saw this page 27, "resigned to become mines minister," might be peaked?

11:30 a.m.

Mr. Tieman: It probably should have been.

Mr. Sterling: No one brought this to your attention?

Mr. Tieman: No. If the person handling it had not been transferred to the Ministry of Revenue, I certainly would have been asking that question.

Mr. Sterling: The person handling it was transferred to--

Mr. Tieman: Mr. Rachamalla, the director, is now part of the Ministry of Revenue.

Mr. Treleaven: I notice that on page 2--but it has has questions 11 to 18 inclusive on it--there appears to be the same very heavy hand that wrote "revised" on that page and then on page 27 "resigned to become mines minister". Do you have any idea who encircled "Mr. René Fontaine," etc.? Do you have any idea who would have put that on? Would that have been internal in the ministry?

Mr. Tieman: I have no way of knowing that, sir.

Mr. Treleaven: You do not know whether that would have been prior to or after the application was submitted.

Mr. Tieman: I have no way of knowing that. I do not think there is any way of ascertaining whether it was in the file when it arrived or whether somebody subsequently placed it on there. About all I can say, and it may or may not be relevant, is that I would expect the staff would probably write more neatly than that and would probably have initialled it or something. Again, I cannot say whether that was the practice in the office at that time.

Mr. Sterling: As you can imagine, our problem with it is that the Fontaine family at that time owned over 100,000 shares of Golden Tiger. On December 10 or 12, Mr. Fontaine sold 45,000 shares. This application seems to have hit in and around that time; so you can understand our interest in the matter.

Mr. Tieman: I understand your curiosity, but I am afraid I cannot help you. I am not sure anybody can, unless we can find the staff person who processed it at the time. I have not pursued that, but if it is of concern, I will do a further check to find out whether I can get any further information.

Mr. Sterling: We would appreciate that.

Mr. Warner: Did I understand you to say earlier that you thought the part written "resigned to become mines minister" may have been put on by Mr. Martin?

Mr. Sterling: It may have been Mr. Martin; it may have been somebody within the ministry. We do not know who did it.

Mr. Treleaven: It is certainly a different pen to that which Mr. Martin has used to sign his signature on the previous page.

Mr. Warner: True. It is all conjecture. We do not know who wrote it.

Mr. Sterling: That is right.

Mr. Treleaven: It certainly catches your eye, though, does it not, David?

Mr. Warner: It sure does.

Mr. Sterling: It might also indicate that somebody did know about the particular matter or that the minister was interfering with the matter.

Mr. Warner: Yes.

Mr. O'Connor: In any event, the witness has undertaken to find out whether anybody in the ministry did it.

Mr. Warner: Yes.

Mr. Sterling: We may want to call the person now working in the Ministry of Revenue who actually considered this form.

Mr. Warner: We could ask Mr. Martin when he shows up to get his grant. The \$187,000 might attract him here.

Mr. Sterling: Have you ever had the pleasure of talking to Mr. Martin?

Mr. Tieman: No, I have not.

Mr. Sterling: I have not either.

Mr. Tieman: It would not surprise me if he phones me one of these days.

Mr. Treleaven: You will tell him the cheque is in the mail, is that it?

Mr. Tieman: I will tell him exactly what I told you.

Mr. Sterling: Were the other applications dealt with by the same gentleman who is now with the Ministry of Revenue?

Mr. Tieman: Yes. He was the director from the beginning of the program right through to May 15, 1986.

Mr. Sterling: Sorry, from what date?

Mr. Tieman: From the beginning of the program, as I understand it, through till May 15.

Mr. Sterling: So he would have some knowledge about these other applications as well?

Mr. Tieman: Yes. There were a series of administrators through the period, but the director was there from the beginning of the program right through until May 15 of this year.

Mr. Sterling: Mr. Martin has not made an attempt that you are aware of to contact anybody within the ministry?

Mr. Tieman: I am not aware, but I have not checked that.

Mr. Sterling: I have no further questions.

Mr. Chairman: Mr. Bossy, do you have a question?

Mr. Bossy: No. My question was asked.

Mr. Chairman: Are there any questions from members of the committee?

Mr. Treleaven: What is Mr. Rachamalla's first name?

Mr. Tieman: Kumara.

Mr. Treleaven: Spell both that and the last name.

Mr. Tieman: K-U-M-A-R-A, I believe. I believe Rachamalla is R-A-C-H-A-M-A-L-L-A. It is probably here somewhere, but just going by memory, I think that is very close.

Mr. Chairman: Mr. Warner, you had a question?

Mr. Warner: Yes. I would like to tidy up a couple of items. The application was on November 27, 1985, and it was approved. What happened then? Was the money paid out or a tax credit given?

Mr. Tieman: No. Are you talking about file 233, the one we were most recently talking about?

Mr. Warner: Yes.



Mr. Tieman: It has simply been designated as a program potentially eligible for either tax credits or possibly eventually a grant. It is a designated program under OMEP at this point, and it has gone no further than that. Obviously, they would have to complete the program, submit all the documentation about expenditures and comply with all the requirements of the act. Then they would get a tax credit. If they could not use the tax credit, they would then apply for a grant. That would probably occur approximately a year from now.

Mr. Sterling: Maybe this will help me out a bit. Does the designation process normally occur before the work is undertaken, and then the actual application for the money and the proof of expenditure occur after the work is done?

Mr. Tieman: It is a bit of both. As I understand it, they can apply for expenditures as of the date of their application, because the designation sometimes takes a while. The designated period then is the date of the application through to the end of their financial year.

Mr. Treleaven: Who checks at some point in the future to see whether the work for which they have a 25 per cent grant was actually carried on?

Mr. Tieman: That is all part of the process of review when they submit their documentation at a later date as to what they have done. Substantial documentation is required, much to the irritation of much of the industry, I might say, in terms of the fussiness of the process. We get constant complaints about all the documentation that is required. I can only assume from that it is quite thorough.

Mr. Treleaven: That is before they get the money. The money is the last.

Mr. Tieman: Oh, yes. There is about a two-year process. If you look at the history of these files, they tend to stretch over a couple of years before they even get a tax credit. Then, depending on how quickly they can verify with the Ministry of Revenue, the grant flows fairly quickly after that, but there is a protracted process before they get a tax credit.

Mr. Warner: With respect to this application, has Golden Tiger had any benefit from the applications?

Mr. Tieman: There have been no benefits to that company since Mr. Fontaine was a minister. They have received neither money nor any usable tax credits since he was the minister.

Mr. Sterling: Would it be unfair to say that the designation in March 1986--

Mr. Tieman: It makes them eligible, but they are a long way from receiving anything at this point.

Mr. Sterling: I do not mean in actual cash, but once you get the eligibility, you are over the major hurdle, are you not?

Mr. Tieman: That is true. Once you become eligible on a designated, eligible program, if you comply with the act and the regulations--

Mr. Sterling: You will get the money.

Mr. Tieman: --you get the money. To my knowledge, there has never been an exception to that process. Looming over all of that is the appeal process.

11:40 a.m.

Mr. Warner: Leaving aside for the moment the question raised about who printed the little cryptic note, "resigned to become mines minister," to your knowledge, is there anything unusual about the application?

Mr. Tieman: Nothing. I have been assured by senior staff, who reviewed the files very carefully, including our solicitor, that there is nothing unusual in any of the files we have.

Mr. Warner: This one I put into a different category from the previous one we were given. All that took place prior to Mr. Fontaine being in the cabinet. There does not appear to be anything particularly unusual about either the process or the outcome and, to your knowledge, there was no reason not to proceed through the normal channels in that processing. This one took place when Mr. Fontaine was a member of the cabinet. To your knowledge, was there any contact between Mr. Fontaine and officials in your ministry with respect to this application?

Mr. Tieman: I am not aware of any contact the minister may have had. I think you should ask him, but I am not aware of any.

Mr. Warner: If this set of papers landed on your desk and had printed on it "resigned to become mines minister" would you anticipate it would be initialled at least, or that there would be some authoring of whoever printed it? Would you expect staff below you to have indicated which individual made the comment?

Mr. Tieman: I certainly would have expected it to have been a bit more tidy, since these are audit files subject to future court procedures and all the other things that go with the administration of the act. I would have expected, where there are notations in the file, that there would be some indication who made that notation.

Mr. Chairman: To be a little more blunt about it, would you expect your employees at least to know the name of the ministry they were working for? That does not seem unrealistic.

Mr. Tieman: I think I can answer yes to that, sir.

Mr. Warner: It is interesting when we look at it, because the printing on the one page is not the same as the printing on the other. "Resigned to become mines minister," is certainly not written by the same person who wrote "revised." I am not a handwriting expert but those two appear to be written by different individuals.

Mr. Tieman: That is quite true.

Mr. Warner: Suppose for a moment that was put there by a ministry staff person. How would you then treat the file?

Mr. Tieman: I think there would be no basis for treating it any differently to any other file.



Mr. Warner: Why?

Mr. Tieman: Again, it goes back to your earlier question of what discretion one has if they comply with the act and with the requirements of the regulations. There is essentially no discretion allowed. It goes back to someone's question earlier, namely, what authority did I have to hold back the particular grant you are speaking about. I have no authority to do that and, indeed, I doubt the minister would have that authority. I think they would process it in a straightforward way.

Mr. Warner: In that event, is the fact that Mr. Fontaine is or is not a director of the firm material to the granting of the credit?

Mr. Tieman: I am sure the staff would not have thought it to be material.

Mr. Warner: In a sense then, whether he is the mines minister and has resigned or whether he is the mines minister and has not resigned is irrelevant to the disposition of this application.

Mr. Tieman: To the administrative process, yes.

Mr. Warner: At that point, it is a political question with respect to the propriety of being a director of a company. That is a question beyond what the function of your ministry is in administering the program.

Mr. Tieman: Yes.

Mr. Warner: Thank you.

Mr. Tieman: All of which is subject to a potential future review in the court. The staff are very mindful of the requirement to be correct in how they handle these applications.

Mr. Warner: I got sidetracked for a moment when Mr. Sterling was pursuing it. Are you going to undertake to find out if someone from the staff had made the comments on those pages?

Mr. Tieman: Yes.

Mr. Warner: Would you be so kind as to check whether--treat the two pages as separate items. In other words, there are handprinted comments on two separate pages. I am not supposing for a moment that it was done by the same individual or by anyone in your ministry. How difficult will this be for you to track down?

Mr. Tieman: I am not sure. The file would not tell you any more than what you have.

Mr. Sterling: We do not have all the pages, either here or there. There may be more alterations to that particular application of which we are not aware.

Mr. Tieman: My understanding is that the committee received a photocopy of the entire file about two weeks ago. Everything in that file is in the hands of the committee. I understood I was being asked to review this with the staff, either those who may be there now or those who were associated with this application, to determine whose handwriting is on these various documents. That would include throughout the whole application.



Mr. Warner: Where is the original?

Mr. Tieman: The original is with our solicitor.

Mr. Chairman: It strikes me as quite possible that some civil servant received this application. That person may be able to identify who made the notations on the application. That, it seems to me, is about as far as we can go.

Mr. Tieman: That is as far as I can go. I will do that, and we will attempt to make a determination, not only about the final page but also in terms of any of the other scribblings, as much for my curiosity as anyone else's.

Mr. Sterling: Does the original indicate the same colour of ink?

Mr. Stepinac: Two different colours.

Mr. Villeneuve: As you have told us this morning, Mr. Tieman, the Ontario mineral exploration program is the major capital grants program within your ministry. I have some difficulty here.

This minister has gone to speak to mining delegations on many occasions. In his presentation to this committee, he stated that he is very much in favour of flow-through shares, etc. However, with regard to the major portion of his portfolio, he would not have been aware of who would have been applying, what areas they were from, whether they were from depressed areas, and so on.

If he is a good minister, it should be his prerogative to make things happen. To make things happen, you have to know what is going on. However, as far as you are concerned, he was never advised of the companies that were applying.

Mr. Tieman: With all respect, the specific applications were not germane to any discussion that I had with him about the policy issues. I would find it not surprising that he would not be dealing with the specific details, given the delegation in the regulations, given the administrative practice that was there. The discussions were not extensive, but they focused on a number of policy issues and policy changes that had been made in the previous government, reducing, for example, the eligibility to one project per company per year. That was a policy decision that had been made and had caused a great deal of concern, and I know that had come to his attention through the industry. There were issues like that.

11:50 a.m.

In fairness to Mr. Fontaine, when I said it was a \$30-million program, that is the mines and minerals side of it. His budget is \$200 million, and it includes many other areas and major programs, including the northern highway budget and a number of special programs for the north. If you are talking about his total attention span, you are talking about \$7 million out of a \$200-million program.

Mr. Villeneuve: In the mines section of his portfolio, that is the major component.

Mr. Tieman: This is true. It is the only grant program, other than a

\$500,000 program that goes for geological research, and it goes to the universities.

Mr. Villeneuve: When he went to some of these conventions, if some presidents of different corporations that are dealing with OMEP asked from time to time, "Could you please look into what the problem is with this particular case?" he would not give that his attention?

Mr. Chairman: I do that.

Mr. Mancini: Leo used to do that.

Mr. Tieman: He did not.

Mr. Villeneuve: He did not.

In his testimony to this committee, he made the statement that he had spoken to a number of mining organizations and that he was a great promoter of flow-through shares. Do you know anything about flow-through shares as they affect your ministry?

Mr. Tieman: Flow-through shares do not affect us directly. Flow-through shares have produced an enormous acceleration in exploration across Canada, including Ontario and particularly in Quebec, where the provincial government has an additional flow-through mechanism that makes it more beneficial. However, there is no direct connection.

The only relevance in my mind is that it raises the question of whether OMEP is totally necessary now as long as the federal government maintains the flow-through share system. We do not know how long that will last. If it were to become a permanent fixture of federal tax policy, we would have to consider seriously whether OMEP as we know it now is a necessary program, because it had the same objectives when it was brought in in 1980 as flow-through shares now have on a national basis.

Mr. Villeneuve: It seems that the discussion between Mr. Martin and Mr. Fontaine revolved around incentives, parts of which were changing to flow-through shares in Ontario. Therefore, in your opinion, this would be a great promotion for the exploration for mineral deposits and eventually for the harvesting of these mineral deposits.

Mr. Tieman: It has been a very effective program, if that is the question, and it is a federal program.

Mr. Villeneuve: I notice again that Mr. Fontaine was most interested in that particular aspect, even if he was not, as you say, interested in who was dealing with his ministry.

Mr. Bossy: I want to ask a question for clarification on the applications we have looked at here, whether for grants or for tax credits that were made. I have perceived, because of statements that have been made in here and that I have read reported in the news media, that direct statements have been made that Golden Tiger received grants as such when he was minister. My indication this morning, based on replies you have made--and this is strictly for clarification--is that at no time during the period Mr. Fontaine was minister was there one grant or tax credit approved, worth not one penny or anything of value.



Mr. Tieman: Let me clarify that. First, there have been no grants made under OMEP since he has been minister. A tax credit notice was issued, which was of no value because no taxes were paid. Therefore, there have been no usable tax credits, nor have there been any grants under OMEP issued to Golden Tiger since just before the minister was appointed.

Mr. Bossy: There seems to have been a very strong perception that this transpired based on some of the evidence or the questioning that has happened and the reporting of that--statements directly made to that effect. To clarify that, during his period as minister, nothing transpired worth even \$1 to Golden Tiger.

Mr. Tieman: There were no public benefits received by Golden Tiger when Mr. Fontaine was minister.

Mr. Treleaven: It has been stated previously that it is automatic. Once you get the approval of the tax credit, it is a mechanical step from there to the Minister of Revenue substantiating that there are no corporation taxes payable to the grant.

Mr. Chairman: Mr. Bossy asked a question; Mr. Tieman answered. You did not like his answer, so you are giving a second answer.

Mr. Treleaven: No. I am going back to what I thought Mr. Tieman said before, that there is an automatic, mechanical step from tax credit to grant.

Mr. Tieman: That is precisely right, and the only grant that might have been received is the one I put on hold. Therefore, there have been no benefits since he was minister.

Mr. O'Connor: I thought you told us that the effective benefit to the applicant occurs upon his being declared eligible for tax credit. Is that not correct?

Mr. Tieman: It puts him in the stream for potential benefit.

Mr. O'Connor: But you indicated that because it is automatic between the--

Mr. Tieman: Yes, it is if they comply with all of the act and all the regulations.

Mr. O'Connor: Then it is automatic that when he completes the work, he gets the tax credit. I thought you told us--

Mr. Tieman: Yes, but a tax credit is of no value if there are no taxes payable.

Mr. O'Connor: My point is that since he has been Minister of Northern Development and Mines, the application had been made and the allocation had been made for benefit, and if they complete the work and are eligible, they will then get it. It is an automatic step. Is that not correct?

Mr. Tieman: That is correct, subject to appeal in the courts.

Mr. O'Connor: The effective benefit to the applicant occurs when he is declared eligible, and that occurred after he became Minister of Northern Development and Mines.



Mr. Tieman: You are quite correct. There are potential benefits. I was speaking to Mr. Bossy's question. There have been none yet. As you point out, there are potential benefits.

Mr. Villeneuve: I have a short supplementary. Would the \$1.4 million of injected new capital done towards the end of 1985 have been part of the qualifying process?

Mr. Tieman: I am sorry; I cannot answer that, not because I do not want to, but because I just do not know.

Mr. Treleaven: Was there not a previous application by Golden Tiger at the application-for-designation stage which was turned down, rejected, put on abeyance, etc., until more capital was raised?

Mr. Tieman: I would have to ask my staff. I have the summaries, and they have all gone through; the three files you have have proceeded through the process. There were some delays and there may have been some questions. I mentioned that earlier. I would have to examine the file to see whether there was some discussion. To my knowledge, none has been turned down. They may have been delayed somewhat in the processing while they acquired sufficient documentation on the availability of capital to carry out the program, but I would have to look at the file to see whether--

Mr. Treleaven: The document we have in front of us, dated November 7, 1985, is an application for designation, which is step one in your outline. It states: "5. Source of funding. Money in treasury, see prospectus." Was there not an application for an OMEP grant by the same company prior to this time?

Mr. Tieman: Not to my knowledge.

12 noon

Mr. Sterling: I can see from your opening statement in regard to the OMEP program that the 15 per cent turned down under that program were turned down because of their inability to provide you with evidence that they were financially stable companies that could carry on an exploration program. Is that correct?

Mr. Tieman: Yes. I am just looking to see. I have a letter which is normally sent out that identifies the kinds of things that are required. Most of them are fairly minor. They must have an Ontario corporation tax branch account number, and some of them do not have that. They have to have an appropriate description of property, the purpose of the program and define the metals they are seeking. They have to provide proof that sufficient funds are available to finance the program. They have to provide a claim map published by the Ministry of Natural Resources with the property properly outlined. They have to provide a list of claims on which the exploration is to be carried out. If the property is under option, a copy of the option agreement is required. They have to provide a statutory declaration, signed and witnessed, and return the signed application.

As I understand it, the main area is the proof that sufficient funds are available, but there are others that have problems complying with even some of the simple requirements.

Mr. Treleaven: What is the date of that letter?

Mr. Tieman: This is a standard letter that goes out and it just ticks off what is missing. It is a form letter.

Mr. Chairman: One of things you do not ask, though, which we found out to our dismay, is whether they have a residence in Ontario, a business address in Ontario, or an agent who is a resident of Ontario.

Mr. Tieman: No.

Mr. Chairman: We regret that immensely.

Mr. Tieman: The main criterion is that the program is going to be carried out in Ontario. We do not make any distinction about people who come from other provinces or about capital raised on the Vancouver Stock Exchange, because that would make no sense at all.

Mr. Chairman: One of the--

Mr. Sterling: May I finish my line of questioning, Mr. Chairman?

Mr. Chairman: Yes.

Mr. Sterling: Therefore, 15 per cent are cut out because they do not, in essence, prove financial viability. The other 85 per cent, I presume, get a letter, such as the letter that is dated March 13, 1986, to Golden Tiger, explaining to them that they have qualified. Is that correct?

Mr. Tieman: Yes, and they get one of these forms that is in your package.

Mr. Sterling: Out of that 85 per cent, has anybody been turned down after he has received that letter?

Mr. Tieman: To my knowledge, nobody has been turned down. They do not always get the amount of money that has been designated, because they do not perform up to the amount that has been approved.

Mr. Sterling: So there is some discretion there.

Mr. Tieman: No, it is not even discretion. If they have not spent the money within the approved limits, they do not get it, obviously. There is no real discretion there. I am just making it clear that the total value of all the designated programs is not the amount of money that ultimately flows out.

Mr. Sterling: Does that letter of March 13 refer to a tax credit or a grant, or can you tell?

Mr. Tieman: That is just the designation and the designation certificate. This is now a designated program with eligibility of \$750,750, with a potential future tax credit of \$187,688, subject again to compliance with the act and regulations, the documentation that is required, etc.

Mr. Sterling: When Golden Tiger received your letter of March 13, 1986, it knew if it spent the money, it would get that tax credit.

Mr. Tieman: If they spent it consistent with the requirements of the program, yes.



Mr. Sterling: For instance, could the president of Golden Tiger take that letter to his bank to show the banker that he had some financial viability in carrying out the exploration program?

Mr. Tieman: I suspect so, but on the other hand it would not have been designated unless the staff was satisfied that the funds were available in one way or the other. I am just not sure what the applicants do, if they get a promissory note and then run back with the designation, or just how that works.

Mr. Sterling: But that is the key day really in terms of their planning for the future. They can make their plans because they know if they live within the act, they can then receive these funds.

Mr. Tieman: Yes, the designation obviously is important. It means you are in the program and, if you comply with the program, you will get the entitlement that is part of the program.

Mr. Sterling: The ministry must allocate money at that stage, does it, or is there--

Mr. Tieman: Yes, although you are looking at a year hence and obviously the funding for that would be in the next fiscal year.

Mr. Sterling: But you put it down as required money?

Mr. Tieman: Absolutely. You have to put that in the system, as it were.

Mr. Chairman: Are there any further questions for Mr. Tieman?

Mr. Treleaven: I would like to make a motion.

Mr. Chairman: Hold off on the motion until we see if there are any further questions.

Mr. Morin: I have just one more to confirm what you said, I think. At no time did Golden Tiger have any advantages while Mr. Fontaine was the minister.

Mr. Tieman: You used the word "advantages," sir. All I can say is Golden Tiger received no grants and it has received no usable tax credits since he has been minister.

Mr. Morin: That answers my question. Thank you.

Mr. Chairman: Thank you very much, Mr. Tieman, for attending this morning.

I had some indication earlier that people were anxious to put motions. I am going to give you the opportunity to do that now. Is there any other business?

Mr. Treleaven: I would like to make a motion. I thought Mr. Mancini was--

Mr. Chairman: I just gave him the opportunity and he declined.



Mr. Mancini: Wait a minute. I did not decline. I thought you were going to say something else, Mr. Chairman. I was waiting.

Mr. Chairman: No. Now is the time to make motions.

Mr. Mancini: Thank you, Mr. Chairman. We want to express again, as we did earlier, our great surprise in the documentation. The former Minister of Natural Resources may think it is funny, but as a former minister, he should not think it is funny.

We think the making public of this document is a serious matter. We have what we believe to be a minister's confidential briefing document. There was an agreed-upon protocol as to the treatment of confidential documents of the previous Conservative government--Mr. Miller and the Premier (Mr. Peterson) made such an agreement. We have respected the protocol of confidentiality of certain government documents.

It appears that Mr. Harris, a former minister, has committed a serious breach and is in conflict of the agreement made between the outgoing and incoming governments. This leads me to believe there may be other such breaches. There may be confidential documents floating around with different staff people and with different members of the Conservative party here in this committee.

We need Mr. Harris to come before this committee to give us a full explanation of why this confidential information was made public and why he requested such detailed information, since it appears to be an unusual request.

Further, if we conclude, as we now believe, that a serious breach of protocol has taken place; and since Mr. O'Connor has made this information public, which is a further breach of the protocol agreement; we are going to ask Mr. O'Connor to resign from the committee.

Mr. O'Connor: I will resign my seat, Remo.

Mr. Mancini: You people may think it is funny that you breached a protocol agreement. We are going to see how funny it is.

Mr. Chairman: Mr. Mancini moves that we call the former Minister of Natural Resources, Michael Harris, as a witness before this committee.

Interjection.

12:10 p.m.

Mr. Chairman: Before you do, I am willing to entertain some discussion on the motion. I am going to indicate now that I have some difficulty with the motion being within the parameters of the committee as it is now sitting during an inquiry on a conflict of interest. I am unaware, frankly, of the details of what you refer to as protocol between an outgoing and incoming government. I would like to make myself familiar with that. The problems I would have with the motion, as it is presented today are, first, does it fall within the parameters of this inquiry? My early inclination is to say it is marginal at its best, but I would be prepared to think about that.

Second, I would have to make some judgement calls about whether any agreement between an outgoing government and a new government being formed has any status with anybody else; so I would have to be familiar with the details of that and make a judgement call.

If you want to entertain some preliminary discussion on the motion, I would be happy to listen.

Mr. Mancini: Could I just respond to you, Mr. Chairman?

Mr. Chairman: I am just telling you now that I am going to reserve judgement on the ruling. I will give you the ruling as soon as I get this information.

Mr. Mancini: I am not going to ask you to make an immediate ruling. You have informed us you want some time, and that is fine with me; but there is precedent in parliaments as far as protocol agreements between outgoing and incoming governments are concerned. That is number one.

Interjection.

Mr. Chairman: That is how I am going to spend my afternoon, I guess.

Mr. Mancini: Second, this document was introduced as evidence by Mr. O'Connor to demonstrate his case and to show that Golden Tiger was on a list compiled or dated January 1984. This document was going to be used in some way or another by Mr. O'Connor as evidence in the Fontaine inquiry. We did not make it public. We did not ask for this evidence to be made public. He made it public, thinking that it would help to build his case. Because it is he who has done so and not us, it is very important for us to find out who prepared this document. Why did the member for Nipissing (Mr. Harris), the minister in charge, break an agreement that we think is valid and that we have not broken? We need the former minister before us to give us that very serious explanation.

Mr. Bossy: And who edited this? That is the big question.

Mr. Mancini: Who edited this?

Mr. O'Connor: Just to assist Mr. Mancini in maintaining the principles established by his government, upon its election or appointment by the New Democratic Party, of no walls and no barriers.

Mr. Chairman: You are not helping the chair very much here.

Interjections.

Mr. Mancini: If he wants to put a slur on the NDP, let him do so. If you want to put a slur on the member for Scarborough-Ellesmere (Mr. Warner), go ahead.

Mr. O'Connor: I can assure the member that he will be receiving support for his motion from our party. Initially, I share the chairman's concern about the relevancy of the particular move, the presence of the member for Nipissing, given the mandate that we have before us, which is to examine conflict-of-interest guidelines with respect to René Fontaine. However, in the interest of getting to the bottom of the thing, I think we will be agreeing to the motion.

The reason I introduced that document was not quite as the member for Essex South (Mr. Mancini) indicated. It was merely to show that it is a standard procedure when briefing any ministers that they are fully briefed on the programs within their jurisdiction. As an example, a former minister--specifically in this case, the member for Nipissing--was fully



briefed on the Ontario mineral exploration program to the extent that he was provided with the names of those who were involved in the program. The assumption is that thereafter other ministers would received equal, similar briefings, including Mr. Fontaine, in order to get to the bottom of that question, which is what the essential question is before us.

It is not really as Mr. Mancini is trying to portray, whether or not there has been a breach of some protocol of which I was unaware. The question is, what was in the mind of Mr. Fontaine and was he guilty of a conflict of interest? In order to get to the bottom of that question, I think we should amend Mr. Mancini's motion, which I would like to do, to include the member for Cochrane South (Mr. Pope), who was the Minister of Natural Resources during the relevant period, keeping in mind, of course, that the member for Nipissing was minister for a very brief time, and include the member for Niagara Falls (Mr. Kerrio), who was the minister in charge of the OMEP program after June 26, 1985.

If the three were to be asked to come here and to bring their briefing books, we could then determine whether it was a special case with Mr. Harris and that only he received the information that is before the committee, or whether all ministers had similar briefings and were apprised of the applicants in that program.

In addition to those three people, it would be useful to have Mr. Fontaine's briefing book before us. I do not suggest for a moment that we call him back; we have heard him as a witness and I think we have the evidence we need out of him. But the production of his briefing book to determine whether similar information is there would be a very easy and simple thing. If the chairman will accept my amendment to include the names of Mr. Pope and Mr. Kerrio and Mr. Fontaine's briefing book, we will be content to vote for Mr. Mancini's motion.

Mr. Chairman: Mr. Warner has a pearl.

Mr. Warner: Yes. This is all quite interesting. I am not sure and I would submit to the chair--

Mr. O'Connor: I am sorry. I do not know whether it was a new motion or part of the same motion that he asked for my resignation from the committee. Obviously, I will not be supporting that. I was intending to support only--

Mr. Chairman: That is the part that really caught my attention.

Mr. Warner: That is the only reason I would support the motion.

Mr. Sterling: That was the good part.

Mr. Warner: This is all very fascinating, but I do not think it is relevant to what we are doing. I ask the chair to consider very carefully whether this motion is in order with respect to our purpose. I believe the question Mr. Mancini raises is one that should be dealt with at some other time by this committee, because we do deal with the rules and procedures of the House, and put it in this context.

It is a curious turn of events that somehow you can have it both ways. We are all aware that it is normal parliamentary practice that former



ministers of the crown are not subject to questions in the House with respect to their former duties, and yet you can obtain information from them, it would seem, by simply asking them. Yet in the House we are prevented by parliamentary practice from asking former ministers questions about their duties.

It does raise a very interesting question. It may be that members wish to call forward previous ministers of the crown, but that, I submit, is a subject for another day; it is not related to what we are doing. We have a document before us. Whether it is properly before us is a side issue. We have the document, we have taken a look at it and we have asked for some authorization of it. It is an incomplete document. None the less, we are dealing with that as it pertains to the inquiry. How it was obtained and the propriety of that, I suggest, is something this committee may wish to deal with on another occasion when we review the rules and procedures of the House.

Mr. Mancini: Mr. O'Connor still does not understand what he has done.

Mr. O'Connor: Let me be the judge of that.

Mr. Mancini: We have no evidence that Mr. Pope has breached the protocol agreement; we have no evidence that Mr. Kerrio has done so. The only evidence we have is that Mr. Harris and you have done so.

Furthermore, you say this document was tabled for some particular reason--and we are not sure any more why you tabled it--but certainly somebody had to underline "Getty-Golden Tiger"; it was certainly introduced for some particular reason; it was certainly underlined because of the Golden Tiger situation, so you were using it for some particular purpose in this committee to make your case for one reason or another.

Your expansion of my motion to include Mr. Pope and Mr. Kerrio is to try to cause them to breach the protocol agreement by having them bring in documents that I understand are to be kept confidential.

Mr. Chairman: This is entertaining, I am sure, but I want to clarify it for you. There is no motion on the table. I have asked for some time to make a ruling on whether the motion is in order. At that time perhaps amendments would be in order, but they are not yet. If you want to give me some advice while I go away and think about what this ruling should be about, I will be happy to entertain that. If you want to squabble, we will open the door and you can go at it.

12:20 p.m.

Mr. Treleaven: Mr. Chairman, we have a theoretical amendment of Mr. O'Connor's.

Mr. Chairman: You have given notice that if that motion were allowed, you would put a subsequent amendment.

Mr. Treleaven: Yes. I would be putting a subamendment to that. If Mr. Bernier were at any time the minister responsible for Ontario mineral exploration program grants--

Mr. Chairman: I am sure.

Mr. Treleaven: --I would want to add his name to the list.

Mr. Chairman: Do you have a phone book, or what?

Mr. Bossy: My only comments are based on relevancy as far as a document that was placed in front of us, as part of the evidence, is concerned.

We have asked for other witnesses. We have to go back to the first witnesses who appeared, to statements that were made and evidence that was presented. Then we follow through and ask other witnesses to appear, to clarify what the evidence was. That was done.

New evidence has been presented here this morning by Mr. O'Connor. I am sure it would be justified to bring in for questioning the person directly mentioned concerning that evidence. Only Mr. Harris was mentioned in that regard. It was stated here that the evidence was edited. That is justification in itself for finding out who edited it, who requested it in the first place, and how privy it might be to the party concerned.

Would I have had access to the minister's book every day? If it was that easily accessible, anyone in opposition or government would have access to every minister's book on a daily basis. Some privacy was breached here.

It is very important that Mr. Harris appear. He was the only person mentioned this morning. The piece of evidence submitted this morning should be cleared up.

Mr. Chairman: Let me try to clarify this for you. I tried to indicate, when Mr. O'Connor tabled these pieces of paper, that I do not consider this to be evidence. I tried to point out to you that we were unable to identify the source. There was alteration and some editing of the papers presented. Dates were changed.

I did not consider it to be evidence at the time. Of course, any member has the right to say anything he wants and to quote from any materials he wants, just as if, instead of putting it on paper, you sat there and said these things. He is free to do that. That does not, however, make it evidence in front of a committee.

This situation is unlike those that come up with regard to other documents, where we are able clearly to identify sources. We assume, for example, that when we ask the Ministry of Natural Resources or of Northern Development and Mines to present us with files, it will not doctor the files. In those cases, we clearly identify the source and work on the assumption that the ministry will provide us with accurate information. These pieces of paper do not have that kind of identification. Clearly, some alteration has taken place.

I was quite prepared, as I would be with any member, to let Mr. O'Connor proceed, because he is free to say whatever he wants. It follows--in my mind, anyway--that he is free to present any kind of written argument he wants. That is what it is. However, it is not evidence presented to a committee.

Any further advice for the chairman?

Mr. Mancini: Mr. O'Connor had copies of this information ready to give out to the committee. Whether or not we are going to squabble about the word "evidence," he was using this as supporting documentation.

Mr. Chairman: I tried to make it clear when he did so that, in my view, he was presenting a written political argument. That is fair game, but it is not to be construed as evidence or hard fact.

Mr. Mancini: I say that this is not a written political document he would use on his own as evidence. In my view, from what I have been able to determine today, this is confidential cabinet material that was supposed to be kept confidential, as stipulated in the protocol agreement made between the outgoing and incoming governments.

Mr. Chairman: Well, we will find out about that tomorrow. Any further advice for the chair? Any further business?

Mr. Sterling: Mr. Chairman, I hate to differ with a colleague of mine, but I must admit I agree with Mr. Warner on this matter. Being an advocate of open government and trying to give as much information as possible to the committee, I see nothing wrong with any of the information in this document. I do not see anything that related to a cabinet decision. Mr. Tieman himself said he did not find the information all that scintillating.

Mr. Chairman: Okay. We will then stand adjourned until tomorrow at 10 a.m. The witness will be Michael Bourgeault, the barrister for Mr. Fontaine.

The committee adjourned at 12:25 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

THURSDAY, AUGUST 21, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Martel

Also taking part:

Foulds, J. F. (Port Arthur NDP)

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witnesses:

Bourgeault, M., Barrister; with Brisson, Bourgeault, Nadeau

Pratte, G. J., Counsel to Mr. Fontaine; with Blake, Cassels and Graydon



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, August 21, 1986

The committee met at 10:07 a.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We are going to start with a reference that was made yesterday to a motion. I asked for some time to make the ruling and I am going to make that ruling now.

Yesterday I reserved my ruling on the proposed motion by Mr. Mancini, which asked that Mr. Harris appear before the committee regarding the documents tabled by Mr. O'Connor. In his opening statement and argument, Mr. Mancini referred to the protocol agreement between the Miller and Peterson governments. He also made frequent references to the cabinet document divulged by Mr. Harris through Mr. O'Connor's tabling of that document with this committee.

The agreement between the Miller and Peterson governments is based on convention and refers specifically to cabinet and cabinet committee documents. Cabinet and cabinet committee documents are those memoranda or submissions, reports, recommendations, agenda, minutes, notes and other confidential papers prepared for the use of the ministers in cabinet and cabinet committee meetings. Also included are briefing notes, opinions and advice to ministers, correspondence between ministers expressing their views and opinions and other documents reflecting such views and opinions. The previously mentioned documents are used in preparation by ministers for cabinet and cabinet committee meetings when proposing to establish or develop government policy relating to the minister's ministry.

The document tabled by Mr. O'Connor is very clearly identified as proposed and potential developments, House issues and briefing notes. This document and others like it are prepared for the use of the minister when responding to questions in the House. By convention, these documents are considered to be the personal documents of that person. This material may be divulged by that person at his own discretion.

Therefore, I find that the appearance of Mr. Harris before this committee would not be relevant to the matter currently before us and must rule the motion out of order. Should the member wish to pursue the matter at a future date, I ask that he do so by providing specific evidence establishing the document as a cabinet or cabinet committee document.

Are there any further motions?

Mr. Mancini: Mr. Chairman, I understand that once you make a ruling, your ruling is not debatable.

Mr. Chairman: But I am a very patient and loving person, and I allow time for hurt feelings; so proceed.

Mr. Mancini: There are no hurt feelings. We are not going to challenge your ruling. Suffice it to say we will have to consider this serious breach of protocol at another date.

Mr. Villeneuve: That is not what was said.

Mr. O'Connor: He ruled it was not one.

Mr. Mancini: I am sorry. Did I miss something?

Mr. Chairman: No.

Mr. Mancini: I had somebody whispering in my ear while you were making--

Mr. Chairman: As the Speaker often says, ignore the injections.

Mr. Mancini: Do I understand correctly that you have ruled my motion out of order?

Mr. Chairman: Yes.

Mr. Mancini: That is exactly what I was saying. Further, I said that we do not intend to challenge the chairman's ruling; we do not intend to debate it, because that is not allowable. I think that is what I said.

From what I understand, you also said this matter could be dealt with later, and we intend to do that. The cabinet documents that have been put before us today clearly show that the convention agreement, which was established in Canada in 1957, was adhered to during the change of government last year--at least the incoming government adhered to the convention agreement; the outgoing government did not.

This is the standing committee on the Legislative Assembly. As members of this committee, we review and make comments on all rules and matters pertaining to issues that relate to the Legislative Assembly and matters such as the one you have ruled on this morning. Because the convention agreement, which was signed by both Mr. Peterson and Mr. Miller, in the middle of paragraph 4 of the June 12 letter refers to briefing notes, which is exactly what this is, it is our view that Mr. O'Connor, the Conservative member on this committee, has committed a serious breach of the convention agreement and can no longer sit on this committee.

Mr. Sterling: On a point of order, Mr. Chairman: If you are going to allow this ridiculous haranguing to continue, you are going to invite my ridiculous haranguing in return.

Mr. Chairman: I was afraid of that. I am just going to ask you to be a little succinct and to wrap up, Mr. Mancini. That is all.

Mr. Mancini: I am trying to wrap up. Mr. O'Connor cannot sit on--Mr. Sterling refuses to admit that Mr. Miller was part of this agreement.

Interjection.

Mr. Mancini: Does Mr. Miller no longer adhere to the agreement that he signed?

Mr. Sterling: Where is Mr. Peterson's signature?

Mr. Mancini: Is it the policy now that the convention--

Mr. Sterling: Where is Mr. Peterson's signature?

Mr. Mancini: Is it the policy now that the convention is to be broken? The former Premier, Mr. Miller, signed the letter--

Mr. Chairman: Okay. I am going to intervene now. I have made a ruling on the motion that you notified us yesterday you wanted to put. I have ruled that the motion is out of order. If you want to pursue the matter at a subsequent date, we can. I call your attention to the fact that we are providing members of the committee with the two letters that are part of this convention; I am not sure we have done the distribution yet, but we are in the process of doing that.

I will just say a bit further that the part that rather sealed the argument for me was the indication that there was a designation by both parties of certain documents that would be collected and held in safekeeping; that is, kept confidential. It seems rather clear to me that the designation of what was confidential and what was not was carried on by both parties. They designated an individual to collate those materials that were considered to be confidential and to hold them in confidence, and that has been done. That would then prevent any other matters you might consider to be confidential of falling into hands they were not designed for.

If Mr. Mancini or anyone else on the committee wishes to pursue the matter, we will entertain those motions at a later date. We will not interrupt these proceedings to do that. If you want to pursue it, you can, but not now. We will do it after we have dealt with this inquiry. At that time, I will be happy to hear all the arguments everybody can muster on either side.

Mr. Mancini: Mr. Chairman, someone in this committee, namely, Mr. O'Connor, produced these documents. They come from at least three separate other documents. We can tell by the type. This leads us to believe that Mr. O'Connor, through Mr. Harris and some of his colleagues on the committee, may have access to all of Mr. Harris's briefing notes.

Mr. Sterling: On a point of order, Mr. Chairman--

Mr. Chairman: I will hear the point of order.

Mr. Sterling: Is he challenging your ruling on that?

Mr. Chairman: That is the point I am going to make. There is no argument on the ruling. You can, of course, challenge the chair.

Mr. Sterling: Challenge him or do not challenge him.

Mr. Chairman: If you want to do that, proceed to do that. If not, we have heard the end of this argument for now. Fine.

We have called a witness for this morning.

Mr. Morin: Will Mr. Markus appear before us again?



Mr. Chairman: He is not scheduled to appear as a witness before the committee again.

Mr. Morin: Is there a chance we will have the opportunity to debate the figures that were presented?

Mr. Chairman: I anticipate that when a response is provided by the ministry, we will proceed to entertain debate on that.

Mr. Morin: You have no idea what date that will be.

Mr. Chairman: We have asked the ministry to prepare it as quickly as possible. They think we will have a reply by tomorrow; so by next Tuesday's meeting we should have their reply in our hands. We will attempt to get that to you.

Mr. Morin: But we will not debate it on Tuesday.

Mr. Chairman: Probably not, but we hope to have a reply from the ministry by Friday. We will have it in your hands as quickly as we can and then we will be in a position to debate it. Are there any other matters?

Mr. Mancini: Mr. Chairman, I am confused with your ruling. Your ruling on my motion is that we cannot call Mr. Harris because it does not pertain to Mr. Fontaine.

Mr. Chairman: That is right.

Mr. Mancini: I accept your ruling; that is fine. My further argument is that it is impossible for Mr. O'Connor to maintain his seat in this committee while he has access to cabinet documents, which is a breach of a convention. He cannot sit on the standing committee of the Legislative Assembly and holus-bolus breach the convention that was signed by Mr. Peterson and Mr. Miller.

Mr. Treleaven: On a point of order, Mr. Chairman: If Mr. Mancini wants to put a motion on the floor about Mr. O'Connor, fine.

Mr. Chairman: This is a bit awkward. Let me put it this way. If you want to put a subsequent motion asking Mr. O'Connor to leave or something, I suppose we could entertain that, but I put this caution to you. Any motion is in order. You could put anything you want. You could put a motion asking a member to leave the committee. I think I would have to tell you in advance, though, that you cannot determine who sits on the committee.

Each member of the assembly has a right to sit on a committee that is clearly established in precedent and in the standing orders. If you do not like him, that is tough. You can express an opinion that you do not like him; you can say he acted improperly; you can do all kinds of things, but you cannot challenge his right to sit on the committee. When Mr. Brandt was briefly a member of the committee, I tried to establish that we had gone through the precedents on that. While you might think it inappropriate for any member of the assembly to sit, his right to be here is not in question.

If you want to pursue it, fine. We will pursue anything you want this morning, but I am trying to give you a little advance warning that you cannot exclude any member of the assembly from attending at the committee and from

sitting on the committee if he has been properly designated by his party whip as being his party's member to sit on the committee. There is nothing I can do about it. You can express displeasure or you can do whatever you want, but it is not going to hold.

Mr. Mancini: Because of the revelation of this document and because of the convention agreement that was signed by Mr. Miller and Mr. Peterson--and the convention goes back to 1957--I consider it highly inappropriate for Mr. O'Connor to maintain his position as a member of this committee at this time.

Mr. Chairman: Okay. I have been patient, kind and loving, and I am getting mean. Shut up. Let us proceed with the witness.

This morning you have called as a witness Michael Bourgeault, who is a barrister with Brisson, Bourgeault, Nadeau. Do you have an opening statement that you want to make?

M. Bourgeault: Oui, Monsieur le Président.

Mr. Chairman: Excuse me, you have me so upset this morning, I forgot to swear in the witness.

Michael Bourgeault sworn.

Mr. Chairman: Proceed.

M. Bourgeault: Bonjour, Monsieur le Président et membres du comité. Avant de répondre aux questions du comité, j'aimerais faire une courte déclaration pour clarifier mon rôle dans la situation qui a mené aux accusations de conflit d'intérêts contre M. René Fontaine. Voici quelques faits en ordre chronologique:

Le 30 janvier 1986, je reçois un appel téléphonique de M. André Gagné. Il me dit qu'il attend des documents de Mary Eberts et veut que je m'en occupe. Par la suite, il me fait livrer les documents constitutifs du fonds de fiducie sans droit de regard pour M. et Mme Fontaine.

Le 3 février 1986, je reçois par l'entremise de M. Gagné la correspondance de Mary Eberts avec les démissions de M. Fontaine de diverses compagnies. Je procède à livrer les démissions et à demander aux compagnies respectives de faire les changements nécessaires.

Puisque notre bureau représente certaines des compagnies, je commence à préparer des résolutions pour mettre en vigueur lesdits changements. En révisant les documents constitutifs de la fiducie préparés par Mme Eberts, je constate certaines erreurs. De plus, M. Héroux m'appelle concernant une omission, soit celle de l'action que détient M. Fontaine dans Industries Nordex inc. Je demande à Mary Eberts quelle procédure suivre, et elle m'avise de préparer un amendement à la fiducie. Elle ne me dit pas que M. Blenus Wright devrait être informé de l'omission pour satisfaire aux "guidelines".

Le 9 mars 1986, M. Fontaine m'appelle chez moi pour me dire qu'il a des actions entières à son nom avec la Société Golden Tiger à Montréal. Il était très clair que M. Fontaine venait à peine de se souvenir de l'existence de ces actions entières, qu'il avait jusque-là oubliées.



Je rencontre M. Fontaine le 16 mars 1986. Je lui demande le nom des personnes à contacter au sujet des actions entiercées de Golden Tiger. J'essaie en vain de rejoindre Mary Eberts les 20 et 21 mars 1986 pour obtenir des directives au sujet des actions entiercées de Golden Tiger. Le 21 mars 1986, je parle à M. Martin, qui me donne l'adresse de la Compagnie Guaranty Trust, et je communique avec eux par lettre datée du 21 mars 1986 pour obtenir de l'information au sujet des actions entiercées de Golden Tiger.

Le 14 avril 1986, je reçois la confirmation du nombre d'actions que Guaranty Trust détient et la confirmation qu'elles sont bel et bien entiercées.

Pendant la semaine du 26 avril, je rencontre brièvement M. Fontaine à Hearst et je l'informe de la réception de la lettre de Guaranty Trust stipulant les conditions attachées aux actions entiercées de Golden Tiger. J'ai dit à M. Fontaine que, selon moi, rien ne pouvait être fait avec ces actions-là sans l'approbation de la Commission des valeurs mobilières du Québec.

Au courant de la semaine du 5 mai 1986, M. Fontaine m'appelle chez moi et me demande de me renseigner au sujet d'actions de Golden Tiger laissées avec un courtier à Timmins ainsi que celles de Paladin et de Villeneuve laissées avec un autre courtier à Toronto. Il voulait s'assurer que les actions de Paladin et Villeneuve avaient bel et bien été vendues en décembre 1985 tel qu'il l'avait demandé à son courtier. Quant aux actions de Golden Tiger, M. Fontaine voulait s'assurer que toutes les parts étaient au nom de ses enfants ou vendues, car il avait donné des instructions à cet effet. Il n'est pas certain mais pense que peut-être il y en a au nom de son épouse.

Le 8 mai 1986, je communique avec M. Voyer, à Timmins, qui me dit qu'il pense que les actions sont enregistrées au nom de M. Fontaine et va donc vérifier.

Le 11 mai 1986, je recontre M. Fontaine à Hearst, chez lui, et je lui montre la lettre de Guaranty Trust. Je ne crois pas que les actions soient sous son contrôle, mais je ne suis pas certain. Il me réfère à M. Blenus Wright. M. Fontaine nie que les actions déposées avec le courtier à Timmins soient à lui. Le 22 mai 1986, M. Héroux m'appelle pour avoir des nouvelles concernant les actions déposées avec le courtier à Timmins. A ce moment-là, je communique avec M. Voyer et il me dit que les actions sont enregistrées au nom de M. Fontaine. Comme il s'avérera plus tard, M. Voyer avait tort et M. Fontaine avait raison.

Le 23 mai 1986, je recontre M. Wright. Je l'informe de l'existence des actions entiercées et des actions que M. Voyer croit erronément être enregistrées au nom de M. Fontaine. De plus, je l'informe du fait que M. Fontaine dit que ces actions ne sont pas les siennes et que j'attends une confirmation de M. Voyer. J'informe également M. Wright des autres actions qui avaient été vendues, soit celles de Paladin et Villeneuve et les montants perçus.

M. Wright ne semble pas terriblement préoccupé par cette information. Je lui raconte l'avis de Mary Eberts concernant la préparation d'un amendement au ronds de fiducie et il fut convenu de procéder de cette façon. Lorsque j'avais terminé, je dois lui en fournir une copie. Blenus Wright, personne responsable de l'administration des lignes directrices sur les conflits d'intérêts, ne me dit pas que non seulement il fallait amender le fonds de fiducie sans droit de regard, mais qu'il fallait également qu'une nouvelle déclaration de ces actions soit faite.



Ce n'est que le 25 juin 1986 que j'obtiens confirmation de M. Voyer qu'aucune des actions de Golden Tiger n'était au nom de René Fontaine.

En conclusion, je suis convaincu que toute infraction aux "guidelines" fut totalement non intentionnelle, car je sais M. Fontaine un homme parfaitement honnête et sincère qui ne penserait jamais à abuser de la confiance de la population à son profit personnel.

Merci, Monsieur le Président.

Mr. Chairman: Any questions?

Mr. Pratte: I was just following the translation, and to assist the committee, there are a couple of words that may not have been translated the way they should have been, for the record. In respect of paragraph 5, Mr. Bourgeault testified that he phoned Mary Eberts, and I think the translation is, "to get guidelines concerning the escrow shares". In fact, the translation ought to be: "to get guidance, or advice" from Mary Eberts as to what to do with those escrow shares.

In paragraph 7, when Mr. Bourgeault said he thought there was nothing that could be done with the escrow shares, it was without the approbation of the Quebec Securities Commission. I think there was some other term given by the translator.

Mr. Chairman: For the information of the committee, you are familiar with Mr. Pratte, who has advised several people and is here as counsel for the witness this morning. Just to clarify: We have tried to provide simultaneous translation services. It is not common practice here, and so we have had to use an outside agency to do that. It is difficult, let me put it this way, for people to come into a parliamentary forum and provide the translation services in this milieu. We have attempted to explain to you that we provide the translation services as best we can. We then proceed to provide an official transcript in English and in French. At that point we will try to pick up any nuances or slight differences in interpretation that might have been provided. We thank Mr. Pratte for his intervention. We can now proceed to questions.

10:30 a.m.

Mr. O'Connor: I note that the statement given by the witness commences with events and his involvement in this matter on January 30, 1986. I assume, sir, that you had known Mr. Fontaine for some time well prior to that date and had been acting for him in some of his companies prior to this year. Is that correct?

M. Bourgeault: Non, ce n'est pas correct. Je connais M. Fontaine depuis plusieurs années. Avant l'appel téléphonique de M. Gagné le 30 janvier 1986, je n'étais pas l'avocat de M. René Fontaine.

Mr. O'Connor: Did you have any involvement with him during the course of any part of last year?

M. Bourgeault: Du tout.

Mr. O'Connor: Or any of his companies?

M. Bourgeault: Du tout.

Mr. O'Connor: Did you have any conversations with him during last year about any matters?

M. Bourgeault: Du tout.

Mr. O'Connor: You knew him that last year, though?

M. Bourgeault: Oui.

Mr. O'Connor: I assume you worked for him during the election.

M. Bourgeault: Pas trop. Je n'ai pas été vraiment impliqué dans son élection.

Mr. O'Connor: He sought no advice at all from you last year with regard to legal matters?

M. Bourgeault: Non.

Mr. O'Connor: Nor did Mr. Gagné? Do you know Mr. Gagné?

M. Bourgeault: Je connais M. Gagné également, oui.

Mr. O'Connor: Did you have conversations with him last year about these matters?

M. Bourgeault: Non.

Mr. Morin: What does participation in politics have to do with conflict of interest?

Mr. Chairman: It is a little beyond the pale, I suppose, but I would indicate to you that I think it is reasonable to try to establish the relationship between Mr. Bourgeault and Mr. Fontaine. As long as we do not spend the whole morning on it, I see nothing really wrong with it.

M. Bourgeault: Je le connais personnellement. Au point de vue professionnel, je n'étais pas impliqué dans ses affaires.

Mr. O'Connor: By "his," you mean Mr. Fontaine, not Mr. Gagné.

M. Bourgeault: M. Fontaine et M. Gagné non plus. Je ne suis pas son avocat.

Mr. O'Connor: You are a member of a firm, are you?

M. Bourgeault: Oui.

Mr. O'Connor: Has your firm acted for Mr. Fontaine and his companies in the past?

M. Bourgeault: Oui.

Mr. O'Connor: Did it act for him last year?

M. Bourgeault: Notre bureau agissait pour lui, oui.

Mr. O'Connor: Was somebody in your firm representing him last year after his election?

M. Bourgeault: Au sujet de--après son élection? Non. M. Brisson, qui est mon associé, est l'avocat de United Sawmill et c'est M. Brisson qui a formé la compagnie René Fontaine Holdings. En ce qui concerne ce qui s'est passé entre M. Brisson et M. Fontaine, je doute qu'ils se soient parlés parce qu'ils se parlent très rarement.

Mr. O'Connor: What you are saying is your partner--is he your partner?

M. Bourgeault: Oui.

Mr. O'Connor: He has acted for Mr. Fontaine and his various companies, United Sawmill, René Fontaine Holdings, Polar Lumber, Mooseland, etc.,

M. Bourgeault: J'en doute.

Mr. O'Connor: You do not know?

M. Bourgeault: Je ne sais pas.

Mr. O'Connor: You do not know whether he acted for them last year?

M. Bourgeault: Je ne peux pas dire s'il a parlé à M. Fontaine mais je le doute parce qu'ils ne se parleraient pas de ces affaires-là. J'en doute.

Mr. O'Connor: I ask these questions because Mr. Fontaine, in the course of a number of things he said in the Legislative Assembly and here, seemed to indicate that he got bad advice from lawyers, accountants and other people. I am just trying to find out what lawyers he is referring to. You have indicated you had nothing to do with him whatsoever until this year--

M. Bourgeault: C'est ça.

Mr. O'Connor: --that your partner acted--

M. Bourgeault: D'après moi, mon associé n'avait rien à faire avec M. Fontaine.

Mr. O'Connor: Do you know of any other lawyers who were acting for him and his companies last year?

M. Bourgeault: Les seules compagnies dans lesquelles M. Fontaine est vraiment impliqué sont United Sawmill et puis sa société holding, qui est René Fontaine Holdings. A savoir quelle sorte d'arrangement a été fait entre lui et M. Brisson, je ne pense pas que M. Brisson ait eu aucun contact avec lui parce que M. Brisson, je crois, est un bon Conservateur. Et je ne pense pas que ces affaires-là aient été discutées.

Mr. O'Connor: That is a redundancy.

M. Bourgeault: Alors le rôle de M. Brisson, si je comprends bien, c'était de faire les procès-verbaux annuels de la compagnie à mesure qu'il recevait des instructions du bureau comptable ou quelque chose comme ça.

Mr. O'Connor: Referring to somebody as a good Conservative is a redundancy. You understand that, do you not?



M. Bourgeault: Oui.

Mr. Chairman: It is also an impossibility.

Mr. O'Connor: I ask you these questions because on January 30, 1986, Mr. Fontaine said in the House: "My legal and accounting advisers in Hearst did not advise me of the need to resign from the boards of directors of Hearst Forest Management and United Sawmill." I am trying to find out who the legal adviser was who did not advise him to resign.

M. Bourgeault: Ce n'est pas moi.

Mr. O'Connor: You did not act for him?

M. Bourgeault: Non.

Mr. O'Connor: Your partner was officially the lawyer for those companies. Would he have advised him?

Mr. Chairman: That is a little speculative, I would say.

M. Bourgeault: Mon rôle a commencé avec la lettre de Mary Eberts. C'est là que j'ai commencé, moi.

Mr. O'Connor: I understand. And you do not have any information on who else may have been acting for him in 1985?

M. Bourgeault: Non.

Mr. O'Connor: Those are my questions.

Mr. Chairman: Any other questions?

Mr. Sterling: About this letter from Mary Eberts, what date was on the letter?

M. Bourgeault: Vous l'avez la lettre, je crois.

Mr. Sterling: Are you talking about the July 9 letter?

M. Bourgeault: C'est écrit en haut à droite, je crois.

Mr. Sterling: You cannot give us information relating to the corporate structure, the directors, etc., of the various companies that are named in this letter, can you?

M. Bourgeault: Je peux essayer de vous aider, à partir de ce que j'ai fait après la révision, après cette lettre-là, elle demandait à M. Gagné de veiller à ce que les différentes compagnies soient avisées, puis j'ai écrit aux différentes compagnies en leur demandant de faire les changements. Je peux peut-être vous aider si vous avez certaines questions spécifiques concernant les compagnies.

Mr. Sterling: Could I ask you, for instance, about Fontaine Holdings Ltd.?

M. Bourgeault: Oui.

Mr. Sterling: You received this correspondence on January 31, 1986, I believe.

M. Bourgeault: Le 3 février 1986.

Mr. Sterling: You received it on February 3? You were not to prepare the letters of resignation but you were to deliver the letters of resignation?

M. Bourgeault: C'est bien ça.

Mr. Sterling: Who are the directors of Fontaine Holdings Ltd.?

Mr. Chairman: If I could interrupt for one moment, I am a little perplexed about what is going on here. I believe we do have a list of the directorships for each of the companies named in this letter. That is a matter of record with the committee. I am a little reluctant to ask a witness to speculate on who they are when we already have them tabled with the committee, unless you are trying to determine how familiar he is with these people.

Mr. Sterling: I am asking the question to make certain that he does know. If he does not know, we will provide him with a document that will show who the directors are.

10:40 a.m.

Mr. Chairman: This is of interest, but I am having a little trouble determining its relevance. Since we do know the directors of each of these named companies--

Mr. Sterling: I do not have that document in front of me right now. Do you have that document?

Mr. Chairman: You asked for the minute books; we have all those. We have listed all this.

Mr. Sterling: I can recall who he is. Because I could not produce the document, I was asking whether you had it. I can tell him, but I was trying to give him the--

Mr. Chairman: That is my problem. Why are you asking the question when you can tell him the answer?

M. Bourgeault: Si vous me donnez le livre, je peux vérifier.

Mr. Sterling: I believe the shareholders of Fontaine Holdings Ltd. were Mr. Fontaine and his wife. Is that correct?

M. Bourgeault: Oui, je crois que c'est vrai.

Mr. Sterling: There was only one director of that company?

M. Bourgeault: Je ne sais pas.

Mr. Sterling: If there was more than one director, the only directors could be the shareholders? That is the normal procedure.

M. Bourgeault: Pas nécessairement, vous pouvez avoir un directeur sans être actionnaire.

Mr. Sterling: Were you aware of any directors other than Mr. and Mrs. Fontaine?

M. Bourgeault: Non.

Mr. Sterling: When you got the letter from Mr. Fontaine resigning his directorship, what did you do with that letter? To whom did you deliver the resignation of René Fontaine as a director of Fontaine Holdings Ltd.?

M. Bourgeault: Je l'ai gardée dans notre bureau, parce que c'est notre bureau, c'est M. Brisson qui est l'avocat de René Fontaine Holdings Ltd.

Mr. Treleaven: Is it normal for you to file notices of change after resignations and change of directors?

M. Bourgeault: Normalement la procédure qui est suivie c'est que l'on attend de savoir qui remplace la personne qui est partie.

Mr. Treleaven: Who did replace him?

M. Bourgeault: Personne. Et d'après les éléments constitutifs du droit du fonds de fiducie, en démissionnant de son poste d'administrateur de la compagnie et en transférant ses actions à Canada Trust--il me semble que ça devait venir de Canada Trust, à ce moment-là.

Mr. Treleaven: With regard to the notices of change, under the Business Corporations Act, all private corporations must file a form with the companies branch within 10 days of the change of directors and officers.

M. Bourgeault: Oui.

Mr. Treleaven: Why was that not done here?

M. Bourgeault: Parce qu'on n'avait pas la personne qui remplaçait M. Fontaine.

Mr. Treleaven: You are saying that if no one replaced a director, it would be usual to leave the records in the companies branch indefinitely, showing the old director, an incorrect situation?

M. Bourgeault: Oui.

Mr. Sterling: Did you contact the trust company to indicate it should be taking some role in recommending a director?

M. Bourgeault: J'ai contacté la compagnie de fiducie le 21 mars. C'était M. Paquette. A ce moment-là, je lui ai demandé de nous aviser qui devait être nommé, et je crois que M. Brisson a envoyé "la nomination", un document qui dit: "We hereby nominate so and so as director", à Canada Trust, et on ne l'a jamais reçu.

Mr. Sterling: To date, there has been no effort on the part of your firm to register a change of directorship with the Ministry of Consumer and Commercial Relations, as required by the Corporations Act?

M. Bourgeault: Oui, c'est vrai.

Mr. Treleaven: That is your usual practice with all companies?



M. Bourgeault: Notre pratique normale est que lorsque quelqu'un démissionne, quelqu'un d'autre est nommé. Si vous partez, vous, comme directeur de la compagnie, normalement, votre compagnie va nommer quelqu'un d'autre pour prendre votre place.

Mr. Treleaven: Au contraire, nowadays, corporations, instead of having a specified number of directors, have directors--it is flexible, between three and seven or whatever.

M. Bourgeault: Ça dépend de quelle compagnie vous parlez. Lisez les documents de ces compagnies-là et vous allez voir qu'ils ne sont pas flexibles.

Mr. Treleaven: Okay, but it is usual--the very form, form 1, which is a notice of change and original notice when a corporation is incorporated, states that it is a change of directors. When someone resigns, there has been a change, and it is required within 10 days to file the notice.

Mr. Chairman: It is fascinating but it is also irrelevant.

Mr. Treleaven: I do not think it is irrelevant at all.

Mr. Chairman: I have been extremely loose in terms of letting you proceed with questions along these lines. I remind you that this is an inquiry into conflict-of-interest allegations. It is not an inquiry into business practices of various companies. If you want to pursue that, you certainly can, and I am going to let you go a little longer, but I also remind you to get back on track.

Mr. Sterling: In terms of the line of questioning, the public of Ontario was not aware that René Fontaine had resigned as a director of René Fontaine Holdings Ltd., as he was required to do by the conflict-of-interest guidelines, until I asked him that question in this committee in July 1986. Therefore, the laws of the province in relation to notification to the Ministry of Consumer and Commercial Relations would have put on the public record that, in fact, he had resigned prior to or near January 31, which was the date of his disclosure. Therefore, I assumed that he was still a director of that company until I was told that in this committee at that time. That is why it is important in a case where you are dealing with a man who has become a member of cabinet to make all the proper filings on time, because that is the public access to that.

Mr. Chairman: The reason I am quite prepared to allow considerable latitude in all this is that it is my general practice and feeling that you can fish wherever you want for a few minutes to establish something, and then I ask you to make it somewhat relevant to the committee. I do not want to restrict the line of questioning at all.

I simply remind you that we are here to try to determine whether there was a conflict of interest either under the Legislative Assembly Act or under the guidelines of the Peterson cabinet or the guidelines of the Davis cabinet. Whether or not someone conformed with any other statute, you have to try to establish some relevance, and you are not doing that. Fish if you want, but let us get to the point.

Mr. O'Connor: By way of supplementary to that point, can I ask the witness this. Regardless of your usual practice of filing a form with the ministry only when a new director replaces the old, which may or may not be within the regulations of that ministry, did not anyone, particularly Mary

Eberts or anyone in the Premier's office, say to you that because of the potential political implications of Mr. Fontaine remaining as a director and it being a violation of the guidelines--and appearing to be because the public would not know unless you had made your filing--you had better get this thing filed regardless of your usual practice, because it is going to appear to the public and the opposition and this Legislature that he is still a director of a company when under the guidelines he is supposed to have resigned?

M. Bourgeault: Non, aucune information sur ça; la seule chose est Mme Eberts, qui a dit de lui dire qu'est-ce qu'on avait fait avec.

Mr. O'Connor: Okay. Nobody told him.

Mr. Treleaven: Could I follow up? As with René Fontaine, nobody told you what you had to do. Is that what you are saying to us?

With regard to these resignations referred to in this letter that had been filed, was the one letter of resignation from René Fontaine to René Fontaine Holdings Ltd. included? Was it one of those four?

10:50 a.m.

M. Bourgeault: Je crois que oui.

Mr. Treleaven: All right. This is exhibit 2020F. Is that the correct one?

M. Bourgeault: Oui.

Mr. Treleaven: With the minister's name, as minister, typed at the top.

M. Bourgeault: Oui.

Mr. Treleaven: That was also dated that same day, January 30, 1986.

Mr. Chairman: Are there any further questions?

Mr. Sterling: Just one very short one. You have said that you received these letters on February 3 and just a note on January 31. What is the difference between those two dates?

M. Bourgeault: C'est le bureau de M. Gagné qui a reçu ça. Ce qui est arrivé c'est que M. Gagné m'a téléphoné et dit: je vais recevoir des affaires, je te les donne.

Mr. Sterling: I am sorry. I did not see that. I did not notice that it was Mr. Gagné.

M. Bourgeault: Alors c'est le bureau de M. Gagné.

Mr. Villeneuve: How long have you been with the legal firm in Hearst that you currently are with?

M. Bourgeault: Le bureau central est à Kapuskasing et non à Hearst. On a un bureau, branch office, à Hearst depuis 1982.

Mr. Villeneuve: Since 1982.



M. Bourgeault: Oui.

Mr. Villeneuve: In January of this year, you took over the business, apparently, from another solicitor, did you?

M. Bourgeault: Non, ce n'est pas juste, ça. J'ai reçu cette lettre-ci me demandant de faire certaines affaires spécifiques et je me suis basé sur ça pour faire certaines affaires.

Mr. Villeneuve: You are not substituting for another solicitor at this point.

M. Bourgeault: Non.

Mr. Villeneuve: As far as you are concerned you are taking over a brand new game.

M. Bourgeault: Non, non. La lettre m'indique quoi faire. Moi je pensais que Mary--Mary a envoyé ça à M. Gagné. M. Gagné jette ça sur mon bureau.

Mr. Villeneuve: As far as you are concerned, as a--

M. Bourgeault: Ce sont des instructions de Mme Eberts à ce moment-là.

Mr. Villeneuve: Are you of the opinion that Ms. Eberts was acting on Mr. Fontaine's behalf at that point?

M. Bourgeault: Oui.

Mr. Villeneuve: You are not aware of any previous correspondence that Ms. Eberts may have had with Mr. Fontaine. You were not privy to that information. You were handed this as of February 3 from Mr. Gagné, who said: "These legal documents have to be dealt with. You are now the solicitor for René Fontaine. Handle them."

M. Bourgeault: C'est ça. La seule différence c'est que le temps lorsqu'il m'a téléphoné. Par la suite, il dit: j'ai des documents de Mary Eberts, je te les envoie. Puis les documents qu'il m'a envoyés, le premier set de documents qu'il m'a envoyés c'était le fonds de fiducie. Ils étaient tous signés, finis et complétés avec une lettre de Mary qui dit: "Please find enclosed the trust agreements." Et puis le lundi d'ensuite, qui était le 3, il tait délivrer cette lettre-ci avec les démissions.

Mr. Villeneuve: Are you aware at this point that there have been questions raised in the Legislature of Ontario regarding possible conflicts of interest? Are you familiar with the fact that Mr. Fontaine as the former Minister of Northern Development and Mines could be in conflict at this stage of the game because of the questions that had occurred in the Legislature?

M. Bourgeault: Oui. Et je pense que c'est pour ça que nous sommes ici aujourd'hui.

Mr. Villeneuve: Are you an expert in that particular type of--

M. Bourgeault: Du tout.



Mr. Villeneuve: You began acting for Mr. Fontaine at the request of Mr. Gagné.

M. Bourgeault: C'est bien ça.

Mr. Villeneuve: To your knowledge, Mary Eberts had been acting on behalf of Mr. Fontaine to that point.

M. Bourgeault: Oui, Monsieur.

Mr. Treleaven: May I just follow up with one question? Have you any idea why Mr. Gagné would retain a new solicitor halfway through a matter?

M. Bourgeault: Je n'ai aucune idée.

Mr. Chairman: Any further questions?

Mr. O'Connor: Just one. I think I know the answer, but one should know the answer before one asks the questions.

Mr. Chairman: It is an old rule but a good one.

Mr. O'Connor: In testimony to us, Mr. Fontaine has said, "Lawyers I depended on may not have completely understood the nature of their tasks." I take it from your evidence this morning that you do not include yourself in that group; in fact, you did not even act for Mr. Fontaine, and you are probably the wrong guy to have before us here this morning. Would you agree?

M. Bourgeault: Oui.

Mr. O'Connor: That was an easy question, was it not?

Mr. Chairman: Are there any further questions?

We thank you for appearing. I would request that the committee spend a little bit of time talking about organization for next week and beyond. Do you want to do that now or would you rather do it later?

Mr. Treleaven: I have a motion to make about witnesses; so perhaps we can deal with that at this time.

Mr. Chairman: Let us adjourn for about five minutes. We will let the witnesses go and then we can proceed to our organizational business.

Mr. Treleaven: Okay.

The committee recessed at 10:56 a.m.

11:20 a.m.

Mr. Chairman: Are we ready to resume? I apologize for the delay. It is my fault. I was consulting with the Clerk's office regarding some matters that have been before the committee.

Are there any motions?

Mr. Treleaven: Yes, I have one, Mr. Chairman.

Mr. Morin: Before we start, I have read this letter again addressed to Mr. Peterson, signed by Mr. Stewart and also signed by Mr. Peterson. I am not questioning your ruling, Mr. Chairman, but I had difficulty in accepting the fact that Mr. O'Connor, who admitted he has access to the documents of Mr. Harris, the former Minister of Natural Resources, has come out with some questions and facts that we do not have access to. It is like going to a duel where each one is given a pistol. One is given ammunition and the other one does not have ammunition. I think it is unfair.

Mr. Sterling: We do not have documents--

Mr. Morin: Let me continue, please.

Mr. Sterling: --of the Liberal caucus or the New Democratic Party caucus, or whatever.

Mr. Chairman: Do you want them?

Mr. Treleaven: We will trade you, ours for yours.

Mr. Morin: I presume Mr. Harris and Mr. O'Connor were familiar with the convention that was agreed upon. To be fair, why do we not look also at Mr. Pope's and Mr. Harris's documents since 1981, because we have asked the same for Mr. Fontaine?

Mr. O'Connor: You will recall that is what I moved.

Mr. Morin: I know, but now that the--

Mr. O'Connor: And the chair ruled it out of order.

Mr. Morin: As the saga is unfolding, I think I now see the necessity.

Mr. O'Connor: Mr. Kerrio, too.

Mr. Morin: Mr. Kerrio did not break the convention. Do not forget that. You broke the convention.

Mr. O'Connor: Neither did Mr. Pope.

Mr. Morin: You broke the convention. The interpretation is so clear that I do not need to be a lawyer. It is so factual.

Mr. O'Connor: How do you call Mr. Pope?

Mr. Morin: Say that again.

Mr. O'Connor: What is the justification for calling Mr. Pope?

Mr. Morin: Because it would be from 1981, and if I recall it, Mr. Pope was--

Mr. O'Connor: He did not break the convention.

Mr. Morin: No, he did not break the convention, but at the same time, you are asking for Mr. Fontaine's arguments. I have difficulty understanding why we should be treated differently.



Mr. Chairman: Let me assist you because I think part of the problem is the status of this inquiry. We are now getting to the point where it is not unreasonable to say that we have heard from the main participants as we were able to identify them; that is, we took a list of people who had been named in the statements and we have invited the principals before the committee. We are now getting to the edges of the material.

When you get to the edge, you get a little loose. You are not on the main point of the argument, so to speak; you are dealing with peripheral issues. If I may say from the chair's point of view, both sides seem to be dealing in those peripheral issues rather nicely. It is causing me some problems. I do not want to preclude debate, discussion or questioning, but it is my unfortunate task to try to keep everybody on a reasonable alignment here.

If you want to pursue this matter, you could probably find a way to do that. What I said in the ruling, which we have not been debating for about an hour now, is simply that that will be another day, another way. I have sought the best advice I can get. I have read both documents that were transmitted. I have considered what was put before you yesterday and tried to warn you then that the documents in question were clearly excerpts. They were not identified and you should exercise some caution in looking on them.

Once somebody puts a piece of paper in front of your nose, it is pretty hard not to read it. You have managed to do that on many occasions, but on these occasions they were relatively short. In my judgement, that is not a cabinet document. At best, it is an excerpt from something a member of cabinet had. According to the definitions of the convention between the two leaders, I do not believe that is considered to be confidential cabinet material. At best, it comprises excerpts from something that was in the possession of a cabinet minister.

I have consulted with the clerk, as have others. For the first time, he read the complete documentation we were able to gather on the matter, and he concurs with the ruling. The ruling will stand, unless you want to challenge the chair and do all kinds of vicious, mean things like that. If you want to pursue it another day, after we have concluded these proceedings, I will be happy to hear those arguments.

I suggest to you that there will be some jurisdictional problems. The agreement is essentially between two party leaders; it is neither part of the Legislative Assembly Act nor part of our standing orders. You are stretching it to say that it is reasonably in front of the committee. I know you can make that argument, so I let some discussion ensue.

If you decide to come back at it on another day, when we have finished with this business, I will certainly listen. However, I am trying to put out warning signals that there are some ground rules here. I have some difficulty establishing that this committee has any jurisdiction over an agreement signed by an outgoing and incoming Premier.

Within those parameters, I am prepared to hear this argument on another day. I am sure I am going to hear a bit more of it now. I am going to let you go on, as I have during the course of all these hearings, because there is a need for some latitude. However, you are pushing it.

Mr. Morin: I do not trust--I am sorry; let me say that again.

Mr. Treleaven: That was Freudian.



Mr. Morin: Au contraire.

Mr. Chairman: One for Morin.

Mr. Morin: Mr. Chairman, I respect your judgement. I believe it is fair. On the other hand, I feel there is some injustice.

Mr. Chairman: I agree.

Mr. Morin: They have access to documentation that we do not. Why not--

Mr. Warner: We will deal with it another day.

Mr. Foulds: How do you think we feel?

Mr. Morin: Let me finish. Why not pass a motion to the effect that the briefing notes and books of Mr. Harris be brought before us?

Mr. Villeneuve: And Mr. Fontaine's.

Interjections.

Mr. Morin: Look, I am just trying to ask for fairness. That is all. Why should they be given certain privileges or advantages to look at information we do not have access to or are prevented from using?

Mr. Chairman: Just to respond briefly, I did try to caution you when the documents were presented.

Mr. Treleaven: Not very well.

Mr. Chairman: I cannot stop people in the committee from being political. That is part of the process here.

Mr. Morin: But you have to be fair.

Mr. Chairman: I did try to identify that, in my view, we did not get the briefing notes in their entirety. We got what someone, using political judgement to make a political point, thought were the appropriate parts of that. They have every right in the world to put those pieces of paper in front of your nose.

The quandary I am in is that I cannot stop people from doing that. There is no way I can do that. I just try to warn you, when it happens, that this is not like a signed affidavit stating that this comprises all the briefing notes the minister got on this day for this question period. You have to respond in similar kind. You have to look at it in a political sense.

In other words, what you got yesterday was not exactly a sworn statement. What you got was somebody's opinion of what was appropriate information for the minister to have. It was used in that way. I cannot--

Mr. Morin: Let me continue again. I am worried because the documents presented by Mr. O'Connor yesterday were taken at random. They took documents they knew would help them in their case. What about us?

Mr. O'Connor: Oh, no.

Mr. Villeneuve: Well, get some.

Mr. O'Connor: Go and get them. Get René's briefing book.

Mr. Morin: If we look into Mr. Harris's documents, we may find information that will be advantageous to us and completely reject their argument. That is my concern.

Mr. Chairman: I appreciate that.

11:30 a.m.

Mr. Warner: On a point of order, Mr. Chairman: Now that you have made the same ruling twice, is it possible to move on--

Mr. Morin: It is not the same thing, David. You know that too well.

Mr. Warner: Can we move on to the rest of our business?

Mr. Chairman: I am anxious to do that, but I understand I have to allow an occasion for members to vent their feelings on these things, and I am happy to do that.

Mr. Sterling: Perhaps we could lend the Liberal caucus our researcher Tim Jones for a couple of days too and--

Mr. Mancini: We are not interested in breaking the convention. We want Mr. Miller--

Mr. Morin: If you feel embarrassed about--

Mr. Mancini: We want his signature to mean something.

Mr. Chairman: Let me put it this way: I am going to entertain this argument for a while, but I am not signing the expense chits until we have finished this.

Mr. Bossy: I would like to come back to what I suggested. Let us forget convention for the moment. Let us look at what was presented to the committee yesterday. Whenever a piece of information is distributed to the committee, it becomes part of evidence or supporting evidence; it is supporting information. Based on evidence that was presented earlier it is only fitting, as we have accorded throughout this hearing, that we came to the conclusion and agreed that certain witnesses should appear for questioning regarding the evidence or the statements that were made in this room.

Based on what was presented and tabled here, and forgetting about convention, we have the right to assume it was taken in parts, because it is not total; it must have been three different documents, or whatever. There is a very grey area as to where this was taken from. I, as a member of this committee, feel strongly that the person who provided that information should be asked to appear as a witness only to verify and to talk about the documents and what is contained within them, so we can properly question the documents. Forget about convention.

That is my submission.



Mr. O'Connor: Can I point out in brief reply that the chairman, after consultation with the Clerk's office, has made a ruling that this document is not subject to the protocols and is not a cabinet document. If you do not like that ruling, why do you not challenge it? That is what we are here for.

Mr. Mancini: We received different information.

Mr. Sterling: Where did you get your information?

Mr. Bossy: I am afraid we have had so many submissions here--

Mr. O'Connor: That is his ruling.

Mr. Bossy: You made the statement yesterday, Mr. O'Connor, that it was not relevant. If it is irrelevant material, it should not have been submitted.

Mr. O'Connor: I agree. I was agreeable to withdrawing it. You did not want that.

Mr. Mancini: Mr. Chairman, I respect your caution that you will give us a few minutes and then you want to wind it up. This will be my last intervention on this matter.

We received a statement yesterday from Mr. O'Connor that he received this from Mr. Harris from the ministerial briefing books. The convention states in paragraph 4, "Also included in the convention were briefing notes." That is exactly what this says: "briefing notes."

Furthermore, there is a revelation at the bottom of page 1 of the briefing notes, which says:

"Letter from H. Brenaut to the Minister of Labour expressed concern about union moves to challenge MOL 'approval of averaging hours of work which allows for 12-hour shifts on seven-days-in-seven-days-out basis.'" We have exposed to us a confidential letter from a civil servant--I believe Mr. Brenaut is a civil servant--to the Minister of Labour that has been tabled before us. It is a serious breach of the convention. It is not quite as simple a matter as Mr. O'Connor and the others are trying to make. It is all there for us to see.

I respect your ruling, Mr. Chairman. You have said we cannot deal with it today. I submit to you that we should try to get all-party agreement that we deal with this breach of the convention immediately after we finish the Fontaine hearings.

Mr. Warner: We could have saved ourselves half an hour if Mr. Mancini, at the moment of your ruling, had simply asked us to do that. I am not unsympathetic with your contention that the convention has been broken. It is a matter that I think deserves our attention, but after we have completed our present task, which is the inquiry into allegations of conflict of interest. When we have completed that, then we can have a look at your contention.

Yes, it is arguable. You will contend that the convention was broken. As I read the document, there are arguments on the other side as well, that if it was a confidential item, it would have been left in the custody of the clerk



of the privy council or the secretary of cabinet. One could assume that this document was not so left and therefore was not confidential. It is an arguable case; there are points on both sides. Let us have that argument when we have completed our work on this inquiry. I will be very pleased to support that motion, but right now I prefer to get on with our task.

Mr. Mancini: Just a question--

Interjection.

Mr. Morin: I agree with what David says. We are here to discuss the conflict of interest of René Fontaine; that is our primary task. But my complaint is that he has access to documents that we do not have access to.

Mr. Warner: They were really useful too, were they not?

Mr. Mancini: He is not supposed to have access.

Mr. Morin: Let me finish.

Mr. Mancini: He is not supposed to have access to those documents.

Mr. Morin: Perhaps--

Mr. Treleaven: We will trade you.

Mr. Sterling: But you do have them.

Mr. Morin: No, we do not. Perhaps we have--

Interjections.

Mr. Morin: Let me make a recommendation that will settle it all. Why do we not ask Mr. Harris to make a formal statement before the committee that the notes and the information we have were not from his cabinet briefing notes. Let us ask him that. That will settle the whole thing.

Mr. Bossy: Clear this mess up.

Mr. Villeneuve: They are.

Mr. Mancini: They are.

Mr. Morin: They are from his briefing notes?

Interjection: Sure.

Mr. Morin: Okay.

Mr. Chairman: Okay. You have all vented your opinions on the matter. What I think is pertinent here is that over the course of the past month you have seen a great deal in the way of documents and you have heard a great deal in the way of testimony in front of the committee. Part of it is fact, part of it is opinion, and part of it is perhaps even not factual. It is unfortunate, but it is your job as members of the committee to sort out what is relevant, what is not relevant, what is factual and what is not factual. Where there are conflicts in the testimony--and there still remain some--you have to decide what you believe. That is part of your responsibility. All I do is referee this zoo. I do not make the final decisions on the matter.

I was asked to make a ruling. I took the afternoon, gathered as much material as I could get and gave you the ruling as soon as I could this morning. The ruling stands. If you want to challenge that, fine; you can do that. I consider what we have done for the past 20 minutes or so to be kind of a discussion on how we would order our business for the remainder of the hearings, but we are not going to entertain any more discussion on it.

Are there motions on ordering the committee's business for the remainder of this inquiry?

Mr. Treleaven: I would move that we call Kumara Rachamalla, who is the director in charge of the Ontario mineral exploration program grants and has been since the inception of the grants, and Mr. Tough, the deputy minister of mines, as witnesses before us. The reasoning is that yesterday we heard a lot of discussion--it was not a witness, but in answer to many dozens of questions, we were referred back to Mr. Rachamalla as the person who could give the testimony that the person yesterday could not give us. Mr. Tough, when he returns from holiday, should also assist us. Let us ask them to come as witnesses.

Mr. Chairman: Okay. We have a motion to call two further witnesses, Mr. Rachamalla and Mr. Tough. Is there any debate on that?

Mr. Warner: Are you suggesting when?

Mr. Treleaven: No. That would be up to the committee to discuss further.

Mr. Chairman: The pertinent question at this time is, do you require further witnesses in these proceedings? If you do, we have a motion now to call two of them, and there may be other people you would want to call.

Mr. Morin: Mr. Harris and Mr. Pope.

Mr. Chairman: Yes. I am afraid you are inviting that. But I think it is reasonable to assume we will proceed on the basis that Mr. Treleaven has suggested two further witnesses be called, and he has identified them, and it would be in order to call further witnesses if you want to.

11:40 a.m.

Mr. O'Connor: I think we should consider that. I will not put it in the form of a motion just yet, because I would like to hear some discussion on it.

With regard to this morning's evidence, it became clear that this man was not involved in the situation until this year. In the light of Mr. Fontaine's comments on several occasions that he was relying on lawyers and they gave him bad advice, I would like to determine who those lawyers were and what they told him.

Mr. Sterling: Put a general ad in the paper.

Mr. O'Connor: We do know of two who allegedly gave him advice. As a result of this morning's evidence, one appears to be the partner of the man who appeared before us. The other--he told me this afterwards, and it was not a part of his evidence--is a man named Bill Matwichuk, who is the lawyer for Hearst Forest Management, and has been since its inception, and in fact



incorporated the company. He might be of some assistance to us. I happen to know Mr. Matwichuk quite well. I know he practises up there. I did not know he was involved until Mr. Bourgeault told us this morning. I think we should consider those two.

Mr. Chairman: I want to remind you that in calling Mr. Bourgeault and others, it was my understanding that the committee essentially wanted to provide anyone who had been named in Mr. Fontaine's statement with an opportunity to reply. Mr. Bourgeault was the one local lawyer who had been named; so you have done that.

Obviously, if you wanted to, you could pick up every lawyer who was connected in any way with any of the companies named or had ever seen René Fontaine. On the same basis, you could call them all if you wanted to. Your decision will be based on whether they can add to the inquiry that has preoccupied us now for the better part of a month.

We can all draw up lists of people and we can try, for example, to get every civil servant who worked in the then Ministry of Northern Affairs and Mines on the premise that they may have seen the application come in and may be able to identify it for you. The list could be very long. It is your job to try to sort out what would or would not be relevant.

Mr. Warner: Could we start with the motion Mr. Treleaven has placed? I would appreciate a little more detail as to precisely what value we feel these two people will be to us in our inquiry.

Mr. Treleaven: To start off, yesterday we talked about the document with the circling of Mr. Fontaine's name as a director of the corporations and the big, heavy-circle red flagging, if you will, of the now minister of mines. Our witness yesterday could not identify where it came from; whether it was in the ministry or before the ministry. That is one thing off the top of my head, but I noted that these people--

Mr. Warner: Sorry to interrupt, but he undertook to try to find out that information for us. Obviously, if it was not anyone in the ministry, if it was Mr. Martin who drew on the document, he will not be able to confirm that.

Mr. Treleaven: Do you remember yesterday the number of times he said, "I am sorry; Mr. Rachamalla would be the one who could answer that, because he has been the director of OMEP from the beginning"? As far as procedures were concerned, he said: "I came along latterly. I came in here in December 1985, and I do not have any information beforehand."

Mr. Warner: This other gentleman was in charge prior to then.

Mr. Treleaven: Yes. Rachamalla was in charge, right from the inception of the grants.

Mr. Warner: Who was the other person he mentioned?

Mr. Mancini: The procedures did not change.

Mr. Warner: What about the other person?

Mr. Treleaven: Mr. Tough. This man yesterday was the acting deputy minister of mines. Mr. Tough was his superior.



Mr. Warner: He said he was on holidays.

Mr. Treleaven: Yes.

Mr. Sterling: Can I add to this? We know from the evidence yesterday that there was a clear breach of the conflict-of-interest guidelines in that in or around March--I cannot remember the exact date--Golden Tiger was given designation as qualifying for a grant. There was a certain amount of discretion involved in deciding whether Golden Tiger was financially able to meet the criteria of the program.

At that time, Mrs. Fontaine owned some 13,000 shares of Golden Tiger and René Fontaine had about 17,000 shares in escrow; so there was "a breach." I do not know how serious that breach might or might not have been. I am not sure who knew what at that stage in the Ministry of Northern Development and Mines. I do not know how much was known in November about those shares. We do know he sold those shares on December 16, December 18, December 19, or whatever, and that they rose quite significantly in market value at that time.

Mr. Morin: Look at the overall picture too.

Mr. Sterling: Could I finish?

Mr. Morin: Yes. I interrupted just as you did the last time.

Mr. Sterling: When Blenus Wright was before this committee, in response to a question from Mr. O'Connor, he said: "As soon as I had knowledge of Golden Tiger shares, on January 31, I followed that up. I called the deputy minister, Mr. Tough, at the Ministry of Northern Development and Mines. I raised the issue with him, and he advised me by telephone that those shares had been sold."

Therefore, Mr. Tough was aware that there were Golden Tiger shares held by his minister. I do not know how far that went down into the ministry. I do not know when he first became aware of it. I do not know whether he was involved in the decision of designating Golden Tiger for this grant under the Ontario mineral exploration program.

In fairness to Mr. Tieman, he came in on December 17. I do not know how much contact he had, how far the process was along, etc. The other official, who was a director and had been involved in the program for some time, would have a much closer contact with the application that was made by Golden Tiger at that time.

Mr. Warner: I am having a little trouble with this one.

Mr. Sterling: The other point is that we are not drawing both those individuals from Hearst or wherever it is. They are both public servants and therefore; presumably, it is not as much of a burden as calling on somebody from the north, which I would have more concern about.

Mr. Warner: Mr. Fontaine admitted that he is in a conflict-of-interest position. We know that. The two important questions from there are whether he benefited personally and whether it was done intentionally. The witnesses we had yesterday and presumably today will attempt to try to ascertain that. As far as I know, to date we have absolutely no evidence to prove either that it was intentional or that he benefited from the conflict. Now you want to try to pull in a few more folks.

Before I agree to this motion, I would appreciate knowing how many more you want. How big a fishing list do you have? Then we will take it from there. If you are talking about two more people, the two Mr. Treleaven has identified--and I presume we could accommodate both of them in one day--I am inclined to go along with that. If you have a list of 23 lawyers and 14 prospectors from the north, that is a whole different matter. I am not inclined to go on day after day, week after week. I eagerly await your list.

Mr. Chairman: I am aware that there are members of the committee who want to put motions calling witnesses. When we began this, I tried to steer the conversation around to what I consider to be the critical questions: whether you have heard enough evidence; whether you will require more witnesses; and whether they will provide you with testimony that is clearly pertinent to the matter before us.

In his motion, Mr. Treleaven named two witnesses. I could not preclude any other motion naming other witnesses. I am trying to get you to order your business, in a sense, by deciding now. Do you need to hear more witnesses? If you do, you have a motion in front of you that will do that. I am trying to warn you that other motions will certainly be in order.

Mr. Warner: Why not put one motion?

Mr. Chairman: we can have a general discussion on whether we have heard enough and then we can make a decision on whether we need to call a lot more witnesses and a lot more documents, if that is pertinent.

11:50 a.m.

Mr. O'Connor: On one point, lest it slip by as though accepted by all the committee members, I have to disagree totally with Mr. Warner's comment that we are here to find out two things. Sure, we are here to find out whether there was a conflict of interest, whether he benefited and whether it was intentional. On whether he benefited, he says there is no evidence to that effect. My goodness, the Golden Tiger shares doubled in value because he did not sell them when he was supposed to. Second, he renewed the timber licences when he was told not to, and presumably there is a profit to be made from them. Surely that is a benefit. How can he sit here and say there is no benefit?

Mr. Chairman: That is clearly an arguable point; it is a matter of opinion.

Mr. O'Connor: He brought it up.

Mr. Mancini: For three generations, he has had those licences.

Mr. Bossy: I want to pick up on what Mr. Sterling just said in trying to justify the reasons for bringing in other witnesses when he made that accusation again that, on the evidence yesterday, it was proven that there was a direct conflict of interest. He referred to some statements Blenus Wright made.

I remember very vividly what Mr. Wright said in this committee, that there is a difference between guidelines and conflict of interest. I believe also in the statements Mr. Fontaine made he admitted he did not comply with the guidelines, or in time with the guidelines. But at no time was there evidence within that. You are making a judgement now as to what you might think.



What I have heard here, with respect to proving a direct conflict of interest, would have to be based on actions the minister would have taken to benefit himself or his company, whatever it might be. That is direct conflict of interest, whether he abided by the guidelines, and guidelines based on the summation of our discussion this morning on convention, which the chairman has revealed as something out here that is not law or whatever it may be. But guidelines are also that, not law. We are making judgement on that.

If we cannot do it with the convention part, to deal with Mr. O'Connor and whether there is a conflict there, how can we deal with guidelines, which are not really law?

Mr. O'Connor: That is our mandate. We are supposed to be doing it.

Mr. Bossy: I know, but it puts it into jeopardy.

Mr. O'Connor: It is what the Legislature told us to do.

Mr. Morin: I agree with Mr. Warner that we should stop calling in witnesses. I think we have enough.

Mr. Warner: I did not say that.

Mr. Morin: You said, "How many more can we call?"

Mr. Warner: I want to know the list; that is all.

Mr. Morin: I feel we should stop. I think we have enough evidence. My colleagues in the centre are trying to look for a monster that does not exist. They are going to keep looking, but he is not there. What is the point of continuing all this inquiry?

Mr. Chairman: Is there any further debate on the motion?

Mr. Sterling: As far as I am concerned at this stage, those two witnesses are the two I need. The only thing I do not have is the responses back from the Ministry of Natural Resources and the material. Once I have read that material, I may request something that does not run fair. That is basically where we stand.

Mr. Mancini: We heard from Blenus Wright, who stated that there was no conflict of interest. Yesterday we heard from the witnesses who were before us, and they told us two significant things.

Interjection: They were two very different opinions.

Mr. Morin: Sure. We asked them yesterday.

Mr. O'Connor: Mr. Wright did not say there was no conflict of interest.

Mr. Mancini: We will review the Hansard if there is a question on that. I will not argue about that now.

Yesterday we heard from the witnesses that the Ontario mineral exploration program was not changed over the years. It was a transfer over the past few months from one ministry to another, but there was no change in the program. We heard that; it was evidence. We further heard that the minister



received no benefits after he became minister; not one single penny was funnelled to Golden Tiger; it is still being held up.

I do not know what we are supposed to find from these other witnesses. We have heard from the assistant deputy minister, who told us the program was not changed. We heard from him that there was no money given to Golden Tiger. Whether or not it qualified was not the question, but no money had been given to Golden Tiger since Mr. Fontaine had become minister. I fail to see what you are going to ask these other witnesses. Those are my short comments, Mr. Chairman.

Mr. Bossy: Just a short addition here. I would suggest that instead of calling in witnesses, the committee should look at and review all the evidence we have and then make a decision on whether we need other witnesses. If we go through Hansard and look at all the evidence we have had presented to us, then we can conclude whether this is clear or not, but right now we are still on a fishing expedition and we have most of the material. We hear witnesses make statements and the chairman saying, "You already have all this information." More of the same will come, but it is time that we review where we as a committee stand to date and whether the evidence before the committee is adequate and we can make a decision. If it is not adequate, then I agree that we should go for it.

Mr. Warner: That is why Mr. Treleaven made his motion. I can be sympathetic to that because when the gentleman was before us the other day, he said he was new to the ministry. He did not really know a whole lot about this. We did have not the best person in front of us and we should be checking with someone else. Wherever there is reasonable doubt, I think we should be pursuing it. I concede that the gentleman you mentioned--and I am not sure about the other--

Mr. Treleaven: Mr. Rachamalla and Mr. Tough.

Mr. Warner: I am not sure what value he would be, but I can see the other chap. Beyond that, unless someone can show relevancy, quite frankly I do not know why we would need anyone else with the one exception, as Norm mentioned. If the material we get back from the ministry raises doubts, then that should be pursued. Other than that, I think we have exhausted the rest, noting that the Premier (Mr. Peterson) will be before us on Tuesday night.

If it is possible then and the motion carries, maybe the gentleman who was named could be before the committee on Tuesday. I understand Mr. Tough is on vacation. You might want to consider that if he is not going to be back for a little while, he may not that important. I mean you are the one who brought the motion forward.

Mr. Chairman: Let me remind you before we proceed with the vote on the matter that, as you previously decided, you have another witness. Mr. Peterson will be here Tuesday evening. We cannot sit any other day, nor during the day on Tuesday. We have agreement from the House leaders to sit Tuesday night and that is it. There is no other time next week that is possible.

We have a reply from Mr. Tieman of the Ministry of Northern Development and Mines on who signed or altered the document that was before you. I assume that is the reason you want the one gentleman to appear.

Mr. Treleaven: One of the reasons.

Mr. Chairman: You may want to ask him other things. I would remind you that Mr. Tieman is the assistant deputy minister. Whether it makes a lot of sense to call the deputy minister in is your judgement call. It is another person, but frankly I would doubt that you would get a great discrepancy between what the deputy minister would say and the assistant deputy minister. That of course is your business.

We have two responses from the Ministry of Northern Development and Mines on the matter of who altered the document and from the Ministry of Natural Resources on whether the statistical analysis in the documents that were presented by Mr. O'Connor on wood allocations was correct.

Mr. Warner: Do we have those now?

Mr. Chairman: No. We are awaiting those replies. We anticipate that we may have both of them by tomorrow. The final witness is the Premier, who is scheduled on Tuesday evening.

Do you want to debate this further or are you ready for the vote?

Mr. Sterling: Are we not going to sit then other than on Tuesday evening of next week?

Mr. Chairman: The only occasion next week when this committee has authority to sit is Tuesday evening.

Mr. Sterling: Therefore, in order to write the report or give direction to write the report or get into that stage, we are going to be into a later time frame. When would that be?

Mr. Chairman: As I indicated earlier, I have asked John, Merike and Lynn to try to start drafting the framework for the report, which in essence would comprise the statements of Mr. Brandt and Mr. Fontaine. There would be an attempt--and this will be tricky--to state the facts as they have been presented, or at least to provide a chronology of events. The committee would then give direction on the conclusion.

I have indicated that at the conclusion of Tuesday evening's session with Mr. Peterson, a motion would be in order to direct staff in drafting the remainder of the report. Since we will be taking up the business of the appointment of the Clerk in the first week of September, it follows that we would have about a week or two to conclude the drafting of the report.

We would then come back the second week in September. At that point, we would entertain arguments on how far we should go, what should be in the report, what the conclusion should be and whether the facts as presented in the report are as everyone perceives them. The political arguments would take place in that time frame.

It would be of some advantage for staff to have a week or two to draft this, as it is going to be a bit of a task. That would be my version of the time frame.

Mr. Mancini: We have been here pretty well all summer. We could not sit one week because of the obligations a couple of members had; we had votes that week, but out of respect to Mr. O'Connor and Mr. Treleaven, we did not sit that week. We lost a week of hearings.



Mr. Treleaven: Oh, come on. One day. You would not sit Sunday; I would not sit Friday.

Mr. Mancini: It was the whole week. Hansard will show that. Furthermore, we were unable to sit for one week because of our obligations to the Commonwealth Parliamentary Association.

It was presumed earlier that we would hear the Premier next Tuesday, then commence with the report. If we keep calling further witnesses, and your time schedule for our staff to start writing the report holds true, we are not going to be finished by September 5.

Unfortunately, I will no longer be able to participate in the committee, which I consider to be a grave injustice. I have been here, and available, all summer. We have sat Mondays and Fridays, and we have done all kinds of things to try to accommodate each other--

Mr. Treleaven: Except the odd day, Remo.

Mr. Mancini: I am sorry. What did you say, Mr. Treleaven?

Mr. Treleaven: I said, except the odd day.

Mr. Mancini: What odd day?

Mr. Treleaven: I do not think you have been here every day.

Mr. Chairman: I do not think this is--

Mr. Treleaven: You gave the shot earlier. Take it back.

Mr. Mancini: I missed one day, one morning of the sittings, Mr. Treleaven--one single morning. We dismissed hearings for a whole week because you had constituency work to do, even though we had votes in this committee to carry on its business.

Thank you for your interjection, Mr. Treleaven.

Mr. Treleaven: Thank you for your inaccurate shot, Mr. Mancini.

Mr. Chairman: Thank you, thank you. Proceed.

Mr. Mancini: Is it going to be the view of the committee that we continue on past the first week of September and that we will probably not be able to write the report until the middle of September? Is that where we are heading?

Mr. Chairman: No. I am just trying to point out the time frame to you. If it goes much further than that, we will have further problems with other obligations and caucus meetings.

I initially expressed that I wanted you to try to stay with this with as little substitution as possible. By and large, we have done that. By and large, the same members have sat through almost all the testimony, with a few exceptions here and there. We did have some substitutions that we could not avoid. I am reasonably happy with that.

Are you ready for the question? The motion before us is a motion to call two further witnesses, Mr. Rachamalla and Mr. Tough.



Motion agreed to.

Mr. Chairman: The best information I can give you is that the first occasion we could do that would not be until the second week in September. Do you have any objection to that?

Mr. Mancini: This is a deliberate attempt by the Conservative members of the committee to get this inquiry extended throughout the whole month of September and possibly into October.

Mr. Chairman: The motion has been dealt with. I have given you the time frame in which all of this can happen.

Mr. Mancini: What do you guys want from Mr. Fontaine? Blood on the floor?

Mr. Chairman: It is conceivable that we could try to schedule them at some earlier date, but as of this moment we have made commitments to proceed with the appointment of a Clerk during the first week of September. Although it may be possible to schedule these witnesses some time during that week--and we will attempt to do that--it may not be. With your concurrence, we will proceed on that basis.

Mr. Warner: I have two suggestions that might be helpful. First, I think the staff could begin the task of drafting the report. I am assuming that, unless there is some startling revelation out of this testimony, we have heard just about all we need to hear. However, I am taking it on good faith that there is a reasonable doubt, which is why we are proceeding with these two new witnesses. The staff can still begin.

Second, since we do have permission to sit Tuesday evening, would it be possible to hear one or both of these other witnesses in addition to the Premier?

Mr. Chairman: I cannot tell you that now.

Mr. Warner: I am suggesting that we try.

Mr. Chairman: If the suggestion is that we are going to stand the Premier down while we listen to a deputy minister and somebody else, I do not think so.

Mr. Warner: With respect, that is not what I said. I suggested that we hear these witnesses in addition to the Premier.

Mr. Sterling: How about over dinner?

Mr. Chairman: If you want, I can try. The only information I have is that Mr. Tough is not available; he is on vacation. I can try to call him in.

Mr. Warner: No. How about the other gentleman?

Mr. Chairman: I have no knowledge of where he is or who he is.

Mr. Warner: I am just suggesting that we try to accommodate him that evening. I am assuming we will not require a full three hours with the Premier. There must be a way to work in the other witness for half an hour or an hour.

Mr. Chairman: Do you want me to try to get these two witnesses and make them available for Tuesday night?

Mr. Warner: We can clear it all up at once.

Mr. Chairman: Do I have agreement on that?

Mr. Warner: I am as anxious as anyone else to get on with it.

Mr. Treleaven: Even the first week in September, as you suggest; try to work them in then.

Mr. Sterling: I agree with Mr. Warner. I do not think this is going to stop the people from starting the report, as far as that goes. They are both witnesses with whom our caucus does not expect to take a great deal of time. The only caveat is about when I get the further documentation from the Ministry of Natural Resources. If I do not get it before Tuesday night, it is going to be hard for us to sign off on witnesses at that time. This is why I would prefer to have until the first week of September and try to fit them in there.

Mr. Chairman: The problem I have with this is that to fit three witnesses into an evening--if we call them at six and we ask the Premier to be here at seven, the chair does not want to be in a position where some member of the committee says, "I have not finished my questions; it is 6:59 p.m. and you are cutting me off."

Mr. Mancini: Let us call them at five.

Mr. Warner: They should be short, succinct questions and they should be asked only once.

Mr. Chairman: Is there going to be some surgery over the weekend?

Mr. Warner: If you treat seven o'clock as an order of the day, then you know seven o'clock is the deadline and the members have to keep the questions short and sweet.

Mr. Chairman: I cannot do that.

Mr. Treleaven: You are in trouble if you try to do that. Somebody will not even get a question.

Mr. Chairman: I cannot even get you to stop arguing on my rulings. If it is agreeable, I will attempt to call these other two witnesses for Tuesday evening.

Mr. Mancini: Let us start at five.

Mr. Chairman: We can start at five, if that is agreeable to the committee members. I hear the next motion coming, thank you.

Mr. Mancini: I do not believe we have dealt with Mr. Warner's comments. I believe Mr. Warner said he wanted to get a fairly good idea of how many witnesses the Conservative members wanted to pursue and he was going to make some kind of judgement. I do not think we have gotten an answer to Mr. Warner's question.



Mr. Sterling: I thought I gave it to you.

Mr. Chairman: Let me give you the chair's interpretation, being fair and impartial. As I heard it, there are two further witnesses the committee wants. It is reserving the right, pending further information that might become available, to call further witnesses. At this moment that is not contemplated. All rights are reserved. If some startling development occurs over the weekend, in receiving documents from the Ministry of Northern Development and Mines or MNR, or from Mr. Peterson's statement, they may want to call further witnesses, but they do not have any in mind right now.

Mr. Bossy: In the process of those interviews with further witnesses, could the committee agree that the chair would rule on relevancy with an iron hand?

Interjection: With an iron hand?

Mr. Bossy: That is right--to stick to the rule of relevancy.

Mr. Chairman: I accept the invitation, and I will have the weapons ready.

What might be practical is that if it were possible to call these witnesses at, say, five o'clock on Tuesday and the committee was prepared to say, "we will take whoever is available and that is it," we could proceed on that basis. If one was still on vacation and not prepared to come to the call, you would have to accept that. In other words, you would have a couple of hours, from five to seven on Tuesday night, when one or both of these gentlemen might appear and you would be agreeable that that would be the end of it. Otherwise, we are setting them over if they are not available.

Mr. O'Connor: I want to point out that we have traditionally called one witness per day and taken our time to cross-examine him carefully, and I question this procedure of setting time limits, which is what we are doing in effect.

Mr. Chairman: Then it is off.

Mr. O'Connor: Second, I wonder whether it is fair to Mr. Tough, who is on vacation, to ask him to come back. Of course, he is going to say yes. I think he is going to defer to the wish of this committee. He will see that wise to do, but I wonder whether it is fair of us to ask him. A vacation is a vacation. I do not know why we cannot sit the first week of September. It would accommodate Mr. Mancini--

Mr. Chairman: Because in the first week of September, this committee has agreed to deal with the appointment of a new Clerk. We made that commitment. It is rather important that we have a Clerk when the House starts in October, and we have agreed to do that. We advertised across the country and spent about \$30,000 to do it. We ought to do it.

Mr. O'Connor: Is there not time on one of the five days of that week--

Mr. Chairman: During the evenings?

Mr. O'Connor: Sure; any time. I think Mr. Mancini is not available after September 5.



Mr. Chairman: That is conceivable.

Mr. O'Connor: I would be quite agreeable to that.

Mr. Sterling: How long will Mr. Mancini be away for, do you know? Is it a week or two weeks?

Mr. Chairman: I have no knowledge.

Mr. Sterling: Because he is going to have to be involved.

Mr. Chairman: I have heard an objection to calling them at five and, to be quite frank, I do not need that aggravation; so we will try to schedule them in the first week of September, possibly during an evening session.

Mr. Mancini: Why can we not hear them at five?

Mr. Chairman: Because I have had an objection that it might somehow infringe on the members' right to question carefully, and I do not feel comfortable with the thought--

Mr. Mancini: Who is objecting? Let us start at four.

Mr. Bossy: Let us get an order to sit all afternoon.

Mr. Chairman: I am at the committee's pleasure on this matter. You are ordering your own business.

Mr. Mancini: Let us get an order to sit Tuesday afternoon.

Mr. Chairman: We could attempt to get permission to sit Tuesday afternoon.

Mr. Mancini: At two o'clock. We will all be here.

Mr. Chairman: The difficulty I have is that we would adjourn and I would not be able to tell you until we sought the concurrence of the three House leaders to do it.

Mr. Mancini: The telephones still work.

Mr. Chairman: The telephones work, but people do not always answer them.

Mr. Mancini: We are all here and we are all listening to the debate; so we can all expect a phone call from somebody telling us--

Mr. Chairman: If you want to do that, I suggest we adjourn now and resume at two. Over the noon-hour we will all contact our respective House leaders to see whether we can get concurrence to sit on Tuesday afternoon.

Mr. O'Connor: I have a difficulty with that time. I have other events scheduled.

Mr. Chairman: We have all had other events scheduled.

Mr. Mancini: I cancelled a lot of events, Mr. O'Connor, and all of us have been put in that position. Our first priority is to sit on this committee. We have been ordered by the House to do this expeditiously--

Mr. O'Connor: Where were you last week?

Mr. Mancini: I did not miss any days last week. I missed Monday of this week, and I came in during the afternoon. If you want to know where I was; I was at the doctor's office. Is that all right with you?

Mr. Chairman: I am going to leave it this way. The committee has passed a motion today asking for two further witnesses. I will attempt to schedule those witnesses in the evening during the first week of September. That is it.

We are adjourned until seven o'clock on Tuesday evening. The Premier will be our witness.

Mr. Mancini: What happened to the suggestion that we would contact our House leaders and come back at two o'clock?

Mr. Chairman: Members were not willing to come back at two.

Mr. Mancini: All members? Let us have a vote on that.

Mr. Chairman: This committee stands adjourned until Tuesday. That is settled.

Mr. Mancini: I move--how can you adjourn the committee when we are in the middle of a debate.

Mr. Chairman: We are not.

Interjection: He just did.

The committee adjourned at 12:14 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

TUESDAY, AUGUST 26, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Morin

Gillies, P. A. (Brantford PC) for Mr. Treleaven

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witness:

Peterson, Hon. D. R., Premier and President of the Council, Minister of Intergovernmental Affairs and Minister of Northern Development and Mines (London Centre L)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Tuesday, August 26, 1986

The committee met at 7:06 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: You have now received a copy of the files from the regional offices in Hearst, Kapuskasing and Timmins and from the two Cochrane regions, Chapleau and the Timmins district office. We have copies of those if you want to peruse them. The report from the Ministry of Natural Resources on the ill-famed graph is now in our presence and you will get a copy of that tomorrow.

That leaves one remaining piece of information yet to come. We were promised an opinion at least from the Ministry of Northern Development and Mines on who may have made an alteration to a document. We have not received that yet. Everything else has been received. Someone had written on the typewritten form that Mr. Fontaine was no longer a vice-chairman of the company, that he had resigned to become Minister of Northern Development and Mines.

As a reminder to the subcommittee on the process of selecting a new clerk, we will meet tomorrow morning at 10:30 in room 230.

We have a witness tonight. The Premier (Mr. Peterson) is here. As with all other witnesses, I am going to provide him with an opportunity to make a statement and then members will have the opportunity to ask questions.

Mr. Martel: May I say one thing before we begin?

Mr. Chairman: I was afraid you would. Yes.

Mr. Martel: I watched that performance a few moments ago, Mr. Chairman. Over the years, we have been pretty lenient around here in wanting people to have free access, but I do not think we can allow kookie characters to wander around and harass people in the Legislature like that. I suggest this committee is going to have to take another look at that, because it is absolutely ludicrous, that type of performance of some clown getting in here. We heard in other areas where we have been that they take precautions against that occurring. We are going to have to look to doing that, because that is just ludicrous.

Mr. Chairman: Yes. I think I would take it upon myself to ask for a little report from security officers in the building as to exactly how that transpired. That was rather untoward. While there was not anything of a serious nature that occurred, anything could have occurred.

I believe we are ready. Mr. Peterson, proceed.

Hon. Mr. Peterson: Mr. Chairman, I do not have a formal statement. I am very happy to answer questions on any subject you would like to discuss tonight. Let me thank you for accommodating my schedule. I am very happy to be here tonight to answer any questions you or the committee have.



Mr. O'Connor: Thank you, Premier, for your attendance here tonight. We on the committee have worked long and hard this summer in attempting to get to the bottom of this unfortunate matter and we think your evidence can be of some material assistance in that process.

I would like to begin by taking you back to the time immediately after the election of all of us on May 2, 1985, and the events thereafter when it became obvious your party was to form the government. You established and appointed a transition team to assist in that regard, including Mary Eberts. She has been a witness before us and has given evidence as to her role in counselling and advising, I believe, initially all members of the Liberal caucus. As the process of choosing the cabinet proceeded, she began to work intensively with each of the prospective cabinet ministers in assisting them in completing a form to divulge their various asset positions to attempt to comply with the then existing conflict-of-interest guidelines.

At the outset, was it your intention and your impression that the guidelines that applied upon your becoming the government were those that were in existence, those established by Mr. Davis some 10 or 12 years prior to that date, and that they were to remain in effect until perhaps new guidelines were to be drafted?

Hon. Mr. Peterson: To be perfectly honest, it was not a matter to which I personally gave a great deal of thought. As you point out so well, when it became apparent we were to form the government, nobody had any idea what a transition involved in this province. Civil servants had never faced one in their lives. We had obviously never faced one. I recall there was so much confusion at that time about what to do, what kind of protocols to sign, who owns what documents and all that kind of thing, that the provincial bureaucrats went to Ottawa to talk to them about how these things are conducted.

I had a transition group that did not know anything more about it than I did. I just assumed they would figure the whole matter out. They divided themselves up in various little groups preparing new ministers. One of the groups they created was the conflict-of-interest group to try to assist in this matter. The repository of the judgements, as you know, was Blenus Wright, an officer of the crown.

We were just struggling through the situation. In general terms, I just said: "Look, let us make sure there are no conflicts of interest. Look at everything and make sure that is the case." Really, that is what happened. Mary Eberts was appointed by the transition group to do some of the prescreening on that, working with the ministers and potential ministers and then turning those judgements over to Mr. Wright.

Mr. O'Connor: But my question was, were you working under the old guidelines until new ones were to be developed.

Hon. Mr. Peterson: At the same time, concomitantly with that, Mr. Wright came to the conclusion that some changes with respect to blind trusting would be more helpful with business people involved in government; so the answer is both.

Mr. O'Connor: You were working under the Davis guidelines then until you could accommodate the changes that some saw as--

Hon. Mr. Peterson: They were going on concomitantly. They were going on at the same time.

Mr. O'Connor: We know the new guidelines came into effect in September; so there was a period of about three months when you were operating under the old guidelines. Would that be fair?

Hon. Mr. Peterson: I cannot say that you are right or you are wrong. I did not spend a lot of time asking myself what set of guidelines we were operating under. I just turned it over to the professionals and said, "Give me a clean bill of health." I was not concerned about the details of how they came back with that.

Mr. Sterling: A supplementary: It sounds strangely similar to your answer to the standing committee on public accounts as well.

Hon. Mr. Peterson: You mean I am consistent?

Mr. Sterling: Yes.

Hon. Mr. Peterson: Thank you.

Mr. Sterling: When I asked Mr. Wright a question about whose guidelines they were, he made it quite clear that they were your guidelines and it was your responsibility to enforce them. Do you not feel you were negligent in not enforcing them?

Hon. Mr. Peterson: No, I do not.

Mr. Sterling: You have given evidence that you did not do anything. Do you not consider that lack of action negligence?

Hon. Mr. Peterson: I would not construe it that way. You are obviously involved in an exercise of trying to determine the facts, and I certainly support you in that effort. If you are suggesting to me that I should have personally gone through all of these things, interviewed all the cabinet ministers and cross-examined them all, I can say to you very frankly that there were so many things on my mind at the moment and I was relying on others to give me that advice.

Mr. O'Connor: Your set of guidelines changed from the Davis guidelines, and they have been characterized by Mr. Wright as a weakening of the former guidelines. Were you aware of those changes? Obviously, you were aware; he has indicated that they came from your office. Can you tell us why you brought about those particular changes?

Hon. Mr. Peterson: Mr. Wright originally suggested it would be a good idea to accommodate business people in government, and it is something I concurred with.

Mr. O'Connor: I think a fair assessment there, a recollection of the evidence of both Mary Eberts and Mr. Wright, was that Mary Eberts suggested changes. In fact, she notes in her letter to Mr. Fontaine in July that changes would be necessary. Mr. Wright, we know, did not become involved in the process until September. Was the initiative for the changes therefore from your office?



Hon. Mr. Peterson: It was not from me. I cannot tell you whether it was from Mr. Wright or Ms. Eberts. They were working together on the whole matter. You are telling me he was not involved until September even though there was a transition in June?

Mr. O'Connor: Yes. That is his evidence.

Hon. Mr. Peterson: It could be.

Mr. O'Connor: The evidence of both of them is that, I believe, as Ms. Eberts indicated, she was assisting the ministers in completing their forms and it was her responsibility to ensure compliance with the then existing guidelines.

Hon. Mr. Peterson: Then it became Mr. Wright who had a final judgement on the matter. I gather there were discussions back and forth. I am not aware of the specific timing back and forth. As I said, I was involved in a lot of other matters.

Mr. O'Connor: Were you aware that the changes were being suggested?

Hon. Mr. Peterson: Yes.

Mr. O'Connor: And what generally they were?

Hon. Mr. Peterson: In general terms, yes.

Mr. O'Connor: Were you aware that they would materially assist Mr. Fontaine in his particular difficulty?

Hon. Mr. Peterson: They were not related to any one particular cabinet minister, Mr. Fontaine or anyone else.

Mr. O'Connor: Were they related to any number of particular cabinet ministers?

Hon. Mr. Peterson: In general terms. It was a suggestion that came, you tell me from Ms. Eberts--it may have been--or Mr. Wright, but it came up the system and seemed quite reasonable to me. As I said, I did not scrutinize these things in detail.

Mr. Sterling: May I ask a supplementary in that area? You are aware that at this time, had the guidelines not been changed or softened or watered down, as I view it, Mr. Fontaine would never have been able to sit in the cabinet? You understand that, do you?

Hon. Mr. Peterson: On what grounds do you say that?

Mr. Sterling: Basically, under the old 1972 guidelines, no private company in which a minister or his family has an interest may become contractually involved with the government of Ontario. Your guidelines were softened.

Hon. Mr. Peterson: Was there a contractual relationship?

Mr. O'Connor: Oh, yes.



Mr. Sterling: With the forest management agreement.

Hon. Mr. Peterson: What FMA?

Mr. Sterling: The one that is being negotiated by United Sawmill.

Hon. Mr. Peterson: Just a minute now. Nothing has been signed, has it?

Mr. Sterling: No, it has not been signed at this time.

Mr. O'Connor: It was just the timber licences back then.

Hon. Mr. Peterson: As a lawyer, Mr. Sterling, you do not want to draw conclusions that are not legally correct. There was no legal relationship at that point.

Mr. Sterling: Not on that one, but we did discover during the hearings that two timber licences were renewed in August 1985, which would have clearly contravened this particular--with two companies--

Hon. Mr. Peterson: I was not aware of that.

Mr. Sterling: We were not aware of it until then.

Hon. Mr. Peterson: I was not aware of that, but I think that points out why it probably was a very good judgement of why you cannot build a system that is so restrictive; it virtually excludes business people. It was probably a very good judgement on the part of Ms. Eberts and Mr. Wright, with which I concur.

Mr. Sterling: The old guidelines did permit businessmen to become cabinet ministers in a government. The distinction is that they cannot sign a contractual relationship with the government of Ontario, and you have permitted that to happen by placing the shares--

Hon. Mr. Peterson: You are telling me there were some timber licences I was not aware of, but to the best of my knowledge there is no contractual relationship with regard to an FMA. There have been discussions going on for several years that I am aware of.

Mr. Sterling: There is certainly one under consideration.

Hon. Mr. Peterson: It has been going on for three or four years, as I understand it.

Mr. O'Connor: On the timber licences, let me get that straight. You were not aware that Mary Eberts, in her letter of July 9 to Mr. Fontaine, told him, "However, any renewal of that arrangement would offend the guidelines," meaning the timber licences. She has discussed them in that paragraph. Notwithstanding that warning, he has gone ahead and renewed them. You did not know that?

Hon. Mr. Peterson: I was not aware of that particular item, no.

Mr. O'Connor: In fairness, that evidence was adduced when you were on your holidays. Maybe the Globe and Mail does not reach British Columbia.

Hon. Mr. Peterson: It reaches everywhere in this country, except I do not read it; that is all.

Mr. Sterling: You do not admit you read it anyway.

Mr. O'Connor: To go back to Mary Eberts, exactly what was her role? What was her mandate? Was she to report to you on what she had found and what she was doing?

Hon. Mr. Peterson: I was not into all the details of this, as I said to you before. I just wanted a clean bill of health. I said: "Is it okay? Can we go? Is everything complied with?" Once the answer was yes, I was happy. In a sense, it was like a doctor saying the patient is sick or the patient is well. I was not into the details of the nature of the disease or the nature of the problems. That is what lawyers are for, to solve problems. Right, Mr. O'Connor? Some lawyers cause problems, but some lawyers solve problems.

Mr. O'Connor: Did she report to you that René Fontaine was clean and there was no problem with him?

Hon. Mr. Peterson: I was under the impression that everything was all done.

Mr. O'Connor: How did you gain that impression?

Hon. Mr. Peterson: I think she told me that.

Mr. O'Connor: She did report that to you?

Hon. Mr. Peterson: At some point, I think she said, "Everything is fine." I said, "Is everything okay?" and the answer back was yes.

Mr. O'Connor: When would that have occurred?

Hon. Mr. Peterson: I cannot tell you. Some time after the transition. I do not know whether it was summer or September.

Mr. O'Connor: It becomes very important actually and obviously when she told you that, because clearly in her letter to René Fontaine everything was not okay. She is advising him that he appears to hold so many thousand shares of Golden Tiger and they must be sold. She says, "You will either have to sell them or put them in a blind trust."

19:20

Hon. Mr. Peterson: Did he sell those?

Mr. O'Connor: No, he did not. That is the point. She advises him on July 9, "Sell your Golden Tiger shares." She advises him, "Further to our several conversations"--meaning they talked about it orally. She further confirms this in the letter of July 9: "René, you have got a problem. Sell your shares." It is right here. He does not sell them until December. Furthermore, he tells us here before the committee that at no time did anybody tell him to sell the shares until December. In our estimation, that is a lie to this committee.

Hon. Mr. Peterson: You have to form your own conclusions about that, Mr. O'Connor.

Mr. O'Connor: You were not aware of this.

Hon. Mr. Peterson: I have told you that I did not follow all these details of correspondence back and forth. I have read some things in the press after the fact, but if you are asking me about my knowledge at the time, the answer is no. I was not following the trail of correspondence back and forth.

Mr. O'Connor: Obviously, you would not follow every piece of correspondence, but the point is that you are saying that at some time she told you René was clean.

Hon. Mr. Peterson: No, that the problems were being worked on and were being solved and we did not have any problems. As you know, I frequently get involved at the stage where things are problems and I was not aware of any problems.

Mr. O'Connor: So she did not say he was clean. She said there might be problems but they were working on them.

Hon. Mr. Peterson: I do not recall the precise words, but I was under the impression that the problems were being solved, if there were problems, and that there was nothing I had to worry about. That was the impression I had.

Mr. Sterling: As a supplementary question in that area, did Ms. Eberts say to you any time, "Your mines minister owns some mining stock"?

Hon. Mr. Peterson: I do not recall that. No, I do not recall that.

Mr. Sterling: Notwithstanding a technical set of rules that you set down for your cabinet ministers, she did not raise the alarm bells that there might be some impropriety in a mines minister being seen to own stock in a mining company that has claims and activity in Ontario.

Hon. Mr. Peterson: I do not recall that kind of a discussion.

Mr. O'Connor: That it was receiving tax benefits and grants from his own ministry. You were not aware of that either?

Hon. Mr. Peterson: I had never heard of Golden Tiger until I was asked a question about it in the House.

Mr. O'Connor: Yes, you indicated that in the House.

Mr. Gillies: I have a supplementary.

Mr. Chairman: I have allowed some latitude with supplementaries. I would prefer to let Mr. O'Connor get on with his questions. Then if other members have questions, we will all get in on it.

Mr. O'Connor: I take it then you were never shown the forms that all the prospective cabinet ministers completed. I believe the evidence was that Mr. Fontaine was in the process of completing one. It was started on June 9, well before--



Hon. Mr. Peterson: I had my accountants and my lawyers fill in my own and I did not look at anybody else's.

Mr. O'Connor: Right in that form Mr. Fontaine says--it is in his typing--that the mining company, meaning Golden Tiger, was doing exploration work for which government grants are received; so Mary Eberts at that point was aware, but she did not tell you, you say.

Hon. Mr. Peterson: No, I was not aware.

Mr. O'Connor: I take it though--

Hon. Mr. Peterson: Just so I am clear, at issue is the escrowed shares--

Mr. O'Connor: No.

Hon. Mr. Peterson: Did he not sell some of those shares?

Mr. O'Connor: At issue, Premier, is all 75,000 shares.

Hon. Mr. Peterson: He sold some of those.

Mr. O'Connor: He sold all but the escrowed shares in December. He was told to sell them in July and he sold them in December when they had doubled in value. He still had not sold the escrowed shares until well into this year because he forgot they existed.

Hon. Mr. Peterson: That is right.

Mr. O'Connor: He had not sold his wife's either. We are talking about the shares he knew about, declared on his form and was told to sell and did not.

Hon. Mr. Peterson: What is the compliance period there in your judgement?

Mr. O'Connor: The compliance period, according to Mary Eberts, is right away. There is no time limit involved in the selling of those shares, according to her letter. She is saying, "You had better sell them because you are mines minister and you are receiving grants."

Hon. Mr. Peterson: Is that what Mr. Wright said? Was that Mr. Wright's judgement?

Mr. O'Connor: No. Mr. Wright's letter ultimately in September provides some time periods, but--

Hon. Mr. Peterson: What was his judgement on the time periods?

Mr. Chairman: If I can interrupt for a minute, I am a little uncomfortable just from the point of view that in Mr. O'Connor's questions, as he is quite free to do, he is expressing an opinion or an interpretation of testimony that was given before the committee. I do not want to inhibit anybody's questions, but I want to note in passing that there is a lot of opinion going on here. It is probably based on fact. It is based on testimony the committee heard. I am just uncomfortable that you are stating them as plain bald facts, not subject to opinion, and I did not hear it to be the case.

Mr. O'Connor: Mr. Chairman, I have been trying to be careful to separate fact from opinion.

Mr. Chairman: I know, and I appreciate that.

Mr. O'Connor: I think there is absolutely no question in the world that those shares were not sold until December. Nobody has refuted that.

Mr. Chairman: I know that.

Mr. O'Connor: Those were the shares he knew about.

Mr. Mancini: I am glad you made that indication, because there have been a lot of opinions expressed already this evening which may differ from the opinions that some of us hold. I am glad you made that point.

Mr. Chairman: I am just trying to caution people that you are free to hold opinions. That is why we are here. You may see the facts in a slightly different way than others see the facts. I just note that in passing. That is all.

Hon. Mr. Peterson: I am sure Mr. O'Connor, who is a fair-minded man, would not want to tell me something that was not factually accurate. He would not say someone else said something that was factually accurate, and he would not try to pass off his opinion on that.

Mr. Chairman: I was just reminding him how fair he is.

Mr. O'Connor: Now that is firmly established in everybody's mind--

Hon. Mr. Peterson: Of which I am a reminder.

Mr. O'Connor: I can see the Globe and Mail headline tomorrow, "O'Connor Eminently Fair in Questioning."

Mr. Premier, you may not have been aware, and you were not, of the Golden Tiger situation, but you were aware of a problem with regard to the FMA. Is that correct?

Hon. Mr. Peterson: In general terms, yes.

Mr. O'Connor: I think you indicated in the House that you were aware as early as May 1985, around the time of the election. What was your information as to the problem that might have existed? I think you described it as, "I was aware of a problem."

Hon. Mr. Peterson: True. The discussions had been going on with his company for some years prior to his running in politics, and I gather these things take years to work out. Obviously there is going to be a suggestion of undue influence if a minister of the crown is any way involved in a situation like that. I was aware of it in general terms. I did not have a lot of familiarity personally with the way FMAs worked or how they were evolved out of the system, but I was aware of potential problems therein.

Mr. O'Connor: I believe in response to a question from Mr. Timbrell in the House on January 30 about that subject, you said:

"Mr. Timbrell: So the Premier condoned it for six months?"

"Hon. Mr. Peterson: Of course I acted. Immediately...."

Can you tell us what it was you did immediately upon learning of that in May with regard to the FMA?

Hon. Mr. Peterson: What did I condone?

Mr. O'Connor: I will read the entire Hansard excerpt if you wish.

"Mr. Timbrell: When was the Premier told?" That was about the FMA.

"Hon. Mr. Peterson: I was aware--

"Mr. Timbrell: What did you do?

"Hon. Mr. Peterson: Exactly what we did do. I was aware last--after the election; I was aware last May there was a problem.

"Mr. Timbrell: So the Premier condoned it for six months?

"Hon. Mr. Peterson: Of course I acted. Immediately...."

Therefore, being aware of the FMA problem as early as May and indicating that you acted immediately, I am just wondering what you did away back in May.

Hon. Mr. Peterson: Mr. Fontaine was involved in no discussions whatsoever about the FMA, to the best of my knowledge, with anyone who was involved in the bureaucratic assembling of the information with respect to the FMA.

Mr. O'Connor: What was it you did? You indicated that--

Hon. Mr. Peterson: It was very clear that if a decision were made on that particular FMA, which had been in the mill for some time, it would be absolutely irrespective of any involvement, past or present, in the company.

Mr. O'Connor: Did you take any steps to have him put his interest in a blind trust or to transfer it to somebody else?

Hon. Mr. Peterson: I did not take any steps personally.

Mr. O'Connor: Did you instruct Mary Eberts or anybody else to do that?

Hon. Mr. Peterson: I just assumed that was happening as a result of his complying with the conflict-of-interest guidelines.

Mr. O'Connor: Did anybody report back to you that had been done?

Hon. Mr. Peterson: I guess I just assumed it had been done. Was it not done? It was done, was it not?

Mr. O'Connor: I hesitate to give any evidence in this regard lest Mr. Mancini jump on me.

Hon. Mr. Peterson: We are not asking for an opinion. We are asking for the facts here. The facts are that is what happened.



Mr. O'Connor: I think the record will indicate that it was on January 30 that he resigned as a director of Hearst and United Sawmill. If he was told to do something immediately, it appears he did not until--

Hon. Mr. Peterson: The day the paper was registered, you mean?

Mr. O'Connor: Yes; that is the day it was registered.

Hon. Mr. Peterson: You recall I personally had a problem. I resigned directorships that I had on June 19. It was the day prior to being sworn in, but they were not processed. There was an affidavit from the lawyers, there is mail and all that kind of thing, proving these kind of things happen. You will be aware that the day of resignation is not exactly the day of registration. You would admit that, would you not?

Mr. O'Connor: Yes, yes--not necessarily. I think the evidence is that he produced a letter from himself to himself resigning from that company.

Hon. Mr. Peterson: Some people talk to themselves; some people write to themselves.

Mr. O'Connor: Yes. Mr. Fontaine does both, frequently.

19:30

Back to the process that Mary Eberts undertook. Do you recall last summer having any specific discussions with her about Mr. Fontaine and his problem other than, "It is being taken care of"? Did she not enumerate to you anything about an FMA, anything about Golden Tiger or anything about timber licences?

Hon. Mr. Peterson: No. There is nothing more than I have told you. I was aware of the FMA situation. The Golden Tiger mining situation, I was unaware of.

Mr. O'Connor: All right. Those are my questions for now. Thank you.

Mr. Martel: I have only about four issues that bother me and they are all short. One that bothers me is the statement that Mr. Fontaine made to the Toronto Sun. I will quote it so this will put it into perspective: "Fontaine also resigned because he was upset at a cabinet decision on a multimillion-dollar forest management agreement slated for Hearst. The company owned by his family was shelved by Premier David Peterson."

I think that is what my friend was alluding to. Is that the action you took, that you shelved any decision? There is a threat in here that Mr. Fontaine would resign. I do not know what goes on in cabinet, whether he was involved or whether there were any discussions, but he made the statement to the press, and none of us was aware of it.

Hon. Mr. Peterson: The thing came up, as you know, when it was taken off cabinet, and we have asked for independent opinions just because of the controversial nature of it; he and the government would be criticized for obvious reasons.

As I understand it, his view of the situation--you are asking me to speak for him at the moment, and I can only give you my opinion of what I understood he was saying--was that he felt the FMA, which I gather has a bunch

of companies involved in it, was really a district thing. It is very important to the economic viability of the community, not just a company. He felt if his presence was standing in the way of the agreement--i.e., they could not sign it because he was a cabinet minister even though not directly responsible--then he would resign rather than see his community suffer.

You know Mr. Fontaine well. He is a very community-minded man. He would not want to see his community suffer just because he was a cabinet minister. That is my understanding.

Mr. Martel: That is a dilemma. Certainly the FMA is needed in that area if forestry is going to be carried on down the road in any way, shape or form. But it was his own statement that made it--there seemed to be an indication there that there was some dialogue about it.

Hon. Mr. Peterson: If you are asking me if he has ever said, "I will quit if we don't get it," the answer is no. There was never any suggestion of that. I think it was more--you know, Mr. Fontaine sometimes, because English is not his first language, communicates in ways that are just like me speaking French; I sometimes do not know what I am saying. I do not think there was any suggestion of a threat, because I never received one.

Mr. Martel: There are three other things. One of the things that worries me, and one of the reasons I suggested you appear, is that someone told you some time in January--you might not want to tell me who it is--that you had had this whole matter reviewed again, I believe, and that you felt the minister was squeaky clean. That leaves you in an embarrassing position. Someone obviously gave you some bad information, because you would not come forward in the House with that sort of statement--at least, I hope not--unless someone had reviewed the material for you. How could you be--

Hon. Mr. Peterson: These two instances that have transpired obviously bring me no joy. These are the kinds of things one prefers to avoid. I thought we had avoided them. I thought we had a process in place that would prevent this kind of thing. You will obviously render judgement on the nature and the gravity of the mistake, whether there was some evil intention to try to manipulate stock values for personal gain, whether there was some kind of a conspiracy or whether there was sloppiness and a mistake.

I have said to you before that I wish these things had been declared; it would have prevented all this fuss and enormous expenditure of political energy, time, talent and money. I was under the impression that everything was okay; so it came as big a surprise to me as perhaps to some others when the conflicts were mentioned.

Mr. Martel: The thing that worries me about that statement is, did you have it reviewed again, or were you going on the information you had received much earlier?

Hon. Mr. Peterson: We had had the earlier review, and at that point I was going on the basis of that information. Then I did have another road to Damascus along the way. As I was watching the Sinclair Stevens business one night I said, "You know, this could happen to us, even though we have reviewed it," and I ordered another review. It is one of those things, frankly, that first ministers worry about, because you do not know all these things and you hope you are not presented with the unexpected.

Mr. Martel: The thing that worries me most about this whole thing--my friend has already alluded to it, and we have to make the judgements, as



you said--is that when we heard Mr. Fontaine make his statement, two things emerged that bothered me: (a) it was everyone else's fault and (b) when he was specifically asked--and I went back to Hansard today to make sure I was reading his French correctly--he said that at no time had he been told he had to sell the shares.

Those of us who have to make some sort of decision find it difficult when a man tells you he had not been told and you have a letter that says in fact he had been told. It makes it very difficult to take a position that is fair-minded when you feel that possibly someone is attempting to mislead you. I know that is a word we are not allowed to use here, but I do not know how else to say it.

When someone says, "No, I was not told," and yet in subsequent hearings we have a letter dated July 9 that says: "Get rid of those damn shares; they are going to be a millstone around your neck"--I am just ad libbing, but to that effect: "You have to get rid of them"--and when someone asks specifically here and it is denied categorically, it leaves us with a concern. I am sure you would be in the same position. I do not want to question the minister's integrity, but boy, it sure raises questions in my mind that are hard to answer, and I suspect they are going to be hard for all the committee.

Hon. Mr. Peterson: Let me just say that those are legitimate questions you raise in your own mind. You have listened to the testimony of a number of people. You are looking for errors, omissions or contradictions, and that is certainly part of your function. I understand the construction one could put on that, and I cannot speak to it. I cannot speak to either of the questions you raise, because I have no knowledge and I was not here to hear the testimony.

However, in the interests of fairness, I could maybe give you another construction as well. You have to form judgements about the credibility of the witnesses. Obviously, that is what happens in a courtroom or quasi-courtroom setting. If you think there was a deliberate attempt to mislead you or someone else, to profiteer, to make money out of proprietary knowledge, to use his position for personal gain, if you come to that conclusion, you clearly have to share that position.

However, there are other conclusions. English is not Mr. Fontaine's first language. Sometimes there are errors of understanding. There are things that obviously, in retrospect, it would have been nice to declare, things that you can say in the strict sense were a violation of the conflict-of-interest guidelines but were not necessarily a conflict of interest, and there is a difference. I cannot help you with your job in that regard, except to say that I think there is another explanation for it too.

Mr. Martel: I do not want to belabour it and invite Mr. Fontaine back, but it might be worth while asking him why he told us no.

Hon. Mr. Peterson: I cannot help you with that question. I am sorry.

Mr. Gillies: Do you not think you might have avoided this whole situation and the problem for your government if the guidelines had not been weakened in the way they were last year? I put it to you this way: It would have been very clear to Mr. Fontaine, had the 1972 guidelines been in place, that he could not undertake to maintain his interests in the companies he did regardless of the blind-trust provision.



19:40

Hon. Mr. Peterson: You are saying he should have sold his company?

Mr. Gillies: I just ask it in the general sense--

Mr. Gillies: Why is it that since 1972, ministers have not had any significant problems in this regard, with one or two exceptions over all those years? I really think Mr. Fontaine's problems were partly predicated by the ambiguity and the changes in the guidelines.

Hon. Mr. Peterson: This is a problem that is hard in any democratic jurisdictions. Are you saying he should have sold his company?

Mr. Gillies: I am saying Mr. Fontaine should not have put himself in the position.

Hon. Mr. Peterson: He should not have been in the cabinet or he should not have sold his company? Is that what you are saying?

Mr. Gillies: He should not have been in a position with his personal holdings to benefit from a decision of the cabinet when he would be at the table. I am asking whether you do not think the old guidelines would have covered this.

Hon. Mr. Peterson: You are saying he should have sold his company and not have been in the cabinet. Is that what you are suggesting?

Mr. Gillies: That is the very baldest interpretation.

Hon. Mr. Peterson: That is what you are saying, if you want to follow that through. You are saying businessmen--the vast majority of business people in some way deal with governments in one way or another. There is a general sense, I am sure, that you would not want only lawyers in politics; it requires a broad mix. Very clearly, we need rules that make sure no one profits by special advantage or special information or by proprietary information on any subject. Very clearly, that is what conflict of interest is about in my situation.

On the other hand, you have to ask yourself in creating new guidelines how big a price people should pay to become involved in public life as well. For some people it is an enormous price. I am sure you have heard many people say, "I could never get involved in that business because it would be too costly." That is indeed the thing we have asked Mr. Aird to look at, and I look forward to his deliberations and his conclusions.

Mr. Gillies: I have to--

Mr. Sterling: Can I ask a supplementary in that area? The problem I have is where you draw the line. We do not have just any old businessman dealing with the government. We have a guy who is a major shareholder in a company that is going to receive somewhere between \$40 million and \$50 million over the next 20 years, as evidenced by the Ministry of Natural Resources. I realize there are obligations associated with that, but that is not the average businessman.

Hon. Mr. Peterson: Mr. Sterling, just by virtue of your asking that kind of question you completely misinterpret what an FMA is. You give the impression that people make money out of FMAs.

Mr. Sterling: We have listened for the past four weeks about FMAs. I think I understand them.

Hon. Mr. Peterson: You have just said he is going to get \$40 million or \$50 million over the next 20 years.

Mr. Sterling: He is going to have control over those funds.

Hon. Mr. Peterson: Your question implies he is going to pocket that. That would not be a fair interpretation of your question, and I am sure you want to disabuse people of that.

Mr. Sterling: That is right. I did--

Hon. Mr. Peterson: Your interpretation of the conflict-of-interest guidelines is that we should not have business people in the cabinet.

Mr. Sterling: No. That is not fair. I am saying if they sign a very significant contract with the government of Ontario, they should not be able to be a major shareholder in that company and be a cabinet minister. Who else is there in the province that you can--

Mr. Chairman: Mr. Sterling, you interrupted the member to ask the question. Would you stop interrupting the Premier when he is trying to answer it?

Hon. Mr. Peterson: Who am I responding to?

Mr. Chairman: That is how it gets to be an interesting question. I know we all have these fervent questions deep down, and we will get them on the record before the evening is over, but it would be helpful if we let Mr. Gillies proceed with his for now.

Mr. Gillies: To return to the point, part of the problem, and we saw it in the other inquiry with Mrs. Caplan, is that I believe your ministers were getting conflicting signals as to what they could do and not do. On reflection, do you not think perhaps if the stricter interpretation had been in place, which dozens of ministers had been able to live with in the past, many of them wealthy business people with whom I sat in cabinet, the problems could have been avoided? If they had simply known, "I am in cabinet and I should not have anything to do with contracting with the government."

Hon. Mr. Peterson: In retrospect, perhaps there are many ways the whole situation could have been avoided. If you are asking me about the perfect set of conflict-of-interest guidelines, they would protect against any situation where anyone took advantage of his or her position. If you have a suggestion that Mr. Fontaine is taking advantage of his position, I have yet to hear the evidence of this. No FMA has been signed, as you know, and it was something that was in the mill for two or three years prior to the election.

Mr. Gillies: I grant you that point, but there is another problem in my mind. Which came first, the chicken or the egg? You put it forward that it seemed like a reasonable and rational move to put in a blind-trust provision to attract business people in cabinet. We have a letter here from Mary Eberts to Mr. Fontaine back in July of last year, outlining in some detail proposed changes to the guideline she was going to put forward. She says, "Such a change would permit the plan for the master agreement to go ahead, although your interest in United Sawmill would have to be in a blind trust."



Do you see how that can be seen in two lights? Were the guidelines being changed to accommodate a few people you wanted to put in cabinet, or were they being changed on a point of principle?

Hon. Mr. Peterson: We have discussed that and I think we have declared that, but it lays out the situation very clearly.

Mr. Gillies: How was it presented to you in Ms. Eberts's discussions with you? I gather there is no evidence of Blenus Wright even commenting on this change until September.

Was it put to you, "If you want persons X, Y and Z to be in your cabinet with no problem, we are going to have to make this change"? Or was it, "Mr. Premier, on this point of principle and in order to attract business people from across the province, you have to make this change"? You have to admit it could be either.

Hon. Mr. Peterson: It was put to me in the context of necessary changes coming up the mill.

Mr. Gillies: So the changes were made in the light of specific holdings of specific ministers.

Hon. Mr. Peterson: No, I did not say that. Changes that were constructive, worth while and modern.

Mr. Chairman: Maybe I can help. In testimony before the committee, Mr. Wright said he had on previous occasions made this recommendation of a change in the guidelines and he did so again this time. Ms. Eberts said the same thing: that at the conclusion of her work as a member of the transition team she made a similar recommendation that the guidelines be altered.

In testimony before the committee on two occasions, Mr. Wright said they had done this in previous reviews of the guidelines, and he reiterated it this time; so it came from that source. Ms. Eberts also indicated that at the conclusion of her work, in going through the records for this particular cabinet, she made a recommendation.

On the record before this committee, it has come from those two sources that we know of.

Mr. Gillies: That is useful to know.

One other question. It goes back to the question of the Blake, Cassels report, which Mr. Aird has before him now. We have asked you from the public accounts committee on the other inquiry to make that public. Do you not see in this context that this becomes very critical? If the legislative committees could review the assumptions and the way your other ministers were conducting themselves, as found by Blake, Cassels, that could then clarify this question about the rationale behind the change in the guidelines.

Hon. Mr. Peterson: The answer to your question is no. I cannot find any logic in your question at all.

Mr. Gillies: You think this committee should judge the way Mr. Fontaine saw fit to conduct his business dealings in complete isolation from the assumptions of any other minister?



Hon. Mr. Peterson: Serious allegations were made about Ms. Caplan; we referred those to a committee. Serious allegations were made about Mr. Fontaine; they were referred to a committee. You have spent a lot of time agonizing on both committees trying to get to the bottom of this situation, as we should. I said from the beginning that all the facts should come out, and I look forward to your judgements on these matters.

In addition to that, we have the Blake, Cassels review of cabinet holdings. I said then, as I say now, that it will be made public. It is being reviewed again by Mr. Aird in the context of a review of the current situation as well as suggestions about the future. I do not know what could be fairer or clearer about that.

I understand your point of view, Mr. Gillies, but it has nothing to do with what you have been charged to do here or in the other committee. As I said, it dealt only with cabinet ministers after July 2, and neither Mr. Fontaine nor Ms. Caplan were in the cabinet at that point. It does not deal with them.

Mr. Gillies: Just one last question. I ask you again, in view of the fact that really the most substantial problems your government has faced in the past year have been the political problems, the conflicts of interest, do you not think it reasonable--

Hon. Mr. Peterson: That is a personal political judgement.

Mr. Gillies: --that these matters be put before a committee of these members' peers to make some determinations about the assumptions your government has been working on?

19:50

Hon. Mr. Peterson: We have been charged with all sorts of accusations regularly by you and other people like you. Every day we are accused of conflict of some type or other, using influence or appointing somebody to this, that or the other thing. That is your job, and any time you want to have a committee hearing to get the facts, please do it. You are welcome to explore and look at anything you would like to look at.

There is a certain piece of information I commissioned that I turned over to Mr. Aird. I said it would all be made public, and I am told that report will be public in a matter of weeks, perhaps the second or third week of September. So you will have it in context, in an intelligent way that you can understand.

Mr. Mancini: Mr. Chairman, it should be noted that this committee chose not to pursue that matter after a lengthy debate.

Hon. Mr. Peterson: I am happy to share it with you, Mr. Gillies.

Mr. Warner: Premier, I am puzzled by one major aspect of this whole business. To me, quite candidly, it is a key to what you identified earlier this evening, and that is the obvious question for the committee members as to whether or not this was an intentional act and whether or not Mr. Fontaine stood to gain by his actions. It obviously is an extremely important question which the committee has to address.

What I am puzzled about is what transpired between the beginning of July 1985 and approximately six months later, the beginning of January 1986, because of the letter which has been referred to several times, the letter from Mary Eberts, dated July 9, in which she very clearly identifies that even under a proposed change that there would be difficulties.

She says, in part, "Such a change would permit the plan for the master agreement to go ahead, although your interest in United Sawmill would have to be in a blind trust."

She very carefully identifies that Mr. Fontaine should take certain steps, that it is very important for him either to sell the shares or put them in a blind trust. Yet we know that, according to Ms. Eberts, even as late as November, Mr. Fontaine had not complied with the request.

Ms. Eberts and Mr. Wright had very responsible jobs. They were obviously attempting to make sure that everything was done properly, that the government was doing things properly and would not be caught up short doing something the wrong way. I guess basically two things puzzle me: what you did during that period of time, approximately half a year, and at what point you were aware that Mr. Fontaine had not bothered to comply with the directions given to him by your trustworthy assistant, Ms. Eberts, on at least two occasions. There must have been some concern on your part, and I would like to know what transpired during those six months.

Hon. Mr. Peterson: I think the answer to your question is that nothing transpired. I guess in retrospect I wish something had transpired. I do not think it really sort of--was it not raised some time in January?

Mr. Warner: Yes.

Hon. Mr. Peterson: Yes, in January, in the House. I said, "Good Lord, what is going on?" I thought all the stuff had been filed. At that point, there was a flurry of activity and all the stuff was filed. I guess for some reason Mr. Wright had the information at that point and had not filed it with the Clerk. I, frankly, was under the impression that it had all been taken care of. I did not actually go and see was his file in the right place, who wrote what down.

Mr. Warner: Although Ms. Eberts was having difficulty in securing Mr. Fontaine's co-operation, she at no time explained that to you?

Hon. Mr. Peterson: I was not aware that there was outstanding problems that had not been solved.

Mr. Warner: And no one else brought it to your attention?

Hon. Mr. Peterson: No, they did not.

Mr. Warner: Does it not strike you as curious that a member of the cabinet, especially in the position Mr. Fontaine held and at the same time having interests--even the appearance of that would could be an embarrassment to the government?

Hon. Mr. Peterson: I guess had I known all these things, and perhaps one can argue in retrospect that I should have spent a lot more time on these matters--I probably will in the future and I hope I get the best independent



advice on these things. I understand your point of how it could give rise to those perceptions. There are various ways to look at these questions, and I can certainly understand people drawing those conclusions. They may not be conclusions with which I personally agree, knowing the individual, the circumstances, my involvement and other people's involvement.

I make the point that Mr. Fontaine is an extremely moral man and has a very acute conscience, with a tremendous passion for northern Ontario and other things. Sloppiness? There is no question there is sloppiness here. A violation of the strict conflict-of-interest guidelines? Yes.

I think he forgot. There was an involuntary noncompliance. I cannot argue that with you, but there is no suggestion to subvert the system or beat it or get around the rules. I do not see any suggestion of that.

Mr. Warner: Quite frankly, I would have been 100 per cent prepared to agree with you, except when I started going back over the Hansards and realized that Mr. Fontaine had not been forthright with us when he came before the committee. What he said is completely at odds with Ms. Eberts' testimony. It suggests to me that either he has a far worse memory than a lot of folks have or he simply did not tell us the truth the first time around. When that happens, then I start to question all those things you mentioned.

There is no question about it. Every member of the House, I suppose, has a certain fondness for Mr. Fontaine and the unusual way in which he goes about his business. He is a very likeable man, but the likeable part wears a little thin when you realize you have not been told the truth.

Hon. Mr. Peterson: I cannot help you with that proposition as you are putting it. You have listened to the testimony. I have no experience with that particular question. You will have to form your own judgements on those matters.

Mr. Sterling: I would like to go back to the area where Mr. Gillies was talking in terms of the conflict-of-interest guidelines and the changes to them. The problem I have with the change is the placement of a significant asset in a blind trust. We found out from Blenus Wright when he was here that, while you disclose that you have so many shares of United Sawmill, the public or anybody else is not privy to the agreement with the trust company, for instance, in this case Canada Trust.

In questioning Mr. Fontaine and the other people, we found out that not only had he entered into an agreement with Canada Trust, but also Canada Trust had retained a close friend, a business associate and a person who is involved with the negotiation of the FMA, as his agent to deal with this asset in it. A valid argument was put forward at that time that it would probably be folly for Canada Trust to deal with that asset without having the advice of somebody who was familiar with that business.

Do you not feel that putting forward a close friend and associate, a man who has been appointed by your government to the Northern Ontario Development Corp.--I am referring to Mr. Cloutier--who is now manager of Hearst Forest Management Inc., which is the one negotiating with the government for this forest management agreement, makes a bit of a sham of the whole blind trust to allow the perception that perhaps putting shares in it does not mean all that much?



I cannot prove intent. I do not think anybody could prove intent. They could never show what conversations Mr. Cloutier and Mr. Fontaine will have in the future. The Hearst forest management agreement is a very substantial undertaking for the area. I think all members of the committee will agree it is something that is necessary for the area. How can you get away from the perception that something is happening there? I do not know who--

20:00

Hon. Mr. Peterson: As you are a lawyer, I am sure you would be the first one to say you have to prove that something is happening. You cannot just draw layman's inferences, particularly with a highly acute legal mind such as your own, and you would not want to do that.

Second, I do not know Mr. Cloutier and I do not know who appointed him. I understand he is a man of superb judgement. He was campaign manager for René Brunelle and obviously anybody who did that would have to be a wise man of great integrity.

If you are saying the blind-trust instrument is an imperfect vehicle in these kinds of things, I think you could make a reasonable argument, Mr. Sterling. That is one of the things we have asked Mr. Aird to look at: how to protect the public interest on all occasions. Then obviously your job is going to be helped to determine the difference between appearance and reality.

Mr. Sterling: I think, because of the very last paragraph of your guidelines, which says, "These guidelines are not exhaustive, nor could they in reality embrace all possible situations representing or suggesting a conflict of interest," the degree of proof is not the same as we would view in the legal world or in the trial world or whatever. Therefore, it is incumbent when you set up an instrument that you keep away from the suggestion that a long-time business associate like Mr. Cloutier would be subject to influence.

Hon. Mr. Peterson: Then the question becomes, in whose opinion? Is it your opinion? Is it my opinion? Supposing I said blindly there is no conflict of interest. You would not take that at face value, just as if you said there is a conflict of interest, some might say, "Mr. Sterling, you have a political axe to grind. You are just doing this to cause a fuss; therefore, you are not credible on the issue." Or me, because we would be perceived to have a direct interest in these things. That is why we have to be, I think, rather clear-minded about how we view the perception questions as opposed to reality questions.

As you know, any time anybody makes a judgement in a court of law, he does so on the basis of evidence in the court, facts, not feelings, not perceptions of what or may not. You are not entitled to draw the worst possible conclusion.

Mr. Sterling: I guess your guidelines have to be better than that. They have to be in perception as well as--

Hon. Mr. Peterson: If you are telling me the guidelines are bad, unenforceable and unclear, if you give them to a first-year law student, he will say, "What does this mean?" They could debate them for a year. They are an imprecise instrument and inexact instrument. I completely agree with you and that is why I am hoping Mr. Aird will come out with a system that gives us more precision, perhaps an independent arbitrator, perhaps legislation, that makes these things far more clear.

Mr. Sterling: I guess your summary is the troublesome part, sir, because I was not convinced when René Fontaine left this committee that he had learned a lesson. I was not convinced that he thought that what he had done was a serious matter. I guess that is your greatest failing and your government's greatest failing in my view.

Hon. Mr. Peterson: I take this whole matter very seriously, if that is what you are asking me. I cannot speak to your reaction of Mr. Fontaine, or if he was not sufficiently contrite or humble to suit your purposes. I do not know. I take these things seriously. Frankly, there is nothing that worries me more in government.

I had some pretty big dreams when we took over this business. One of them was to try to remove some of the cynicism and show there are people who care about the situation and are not there for private personal gain. Then these allegations are made, and immediately my reaction was, if there are mistakes, we have to pay the price. All the facts should come out. That is why we referred them to the committee, as you will recall.

If we make mistakes, we have to pay the price for them. We trusted the fair-mindedness of the members of the Legislature to make their judgements.

Mr. Sterling: Could we approach it from the other end? Who in Ontario society should be excluded from sitting in the cabinet? The way I have read the guidelines now that you have--

Mr. Martel: Lawyers.

Mr. Sterling: Tories or lawyers, or both?

Who should be excluded? As I read your guidelines, it does not matter if you are a major shareholder in a company that is contracting with the government in a major way. If he is not excluded, who is excluded? Nobody.

Hon. Mr. Peterson: Is it the intention to exclude people from politics, Mr. Sterling? You are coming at it backwards. The intention is not to exclude people. The intention is to build a system where no one uses proprietary knowledge or information or power to gain personally, but that the public interest is always paramount and is never serving a private interest.

Surely, as we wrestle with this difficult problem--the federal government and other provinces have had the same problem. We are not unique here. Surely, that is what we are involved in. I hope that when Mr. Aird has his report, your committee will look at the situation and wrestle with it and give its definitions. We will come up with a piece of legislation or whatever that we can all agree to. I can pose to you many hypothetical questions. What about members of parliament who have jobs outside here who are lobbying people that they used to be cabinet ministers for? Is that a conflict of interest? What is your opinion?

Mr. Sterling: If he is a sitting member, it is a conflict of interest.

Hon. Mr. Peterson: It has happened. That is an interesting point. What about lawyers who are working part-time around here?



Mr. Sterling: As long as they are not associated with a law firm that is contracting with the government or lobbying, that is permitted under the Legislative Assembly Act.

Hon. Mr. Peterson: In your opinion, is that the proper kind of legislation? Do you like it that way or should we--

Mr. Sterling: I think it is a reasonable restriction.

Hon. Mr. Peterson: I have had people come to me and say: "That member of parliament is working only part-time and I am paying him. I think it is a conflict of interest. He is doing X, Y or the other thing." That is not limited to one party; that is all three parties. That offends some members of the public. They see it as a conflict of interest.

Mr. Sterling: That particular matter offends me personally, but that is not--

Hon. Mr. Peterson: That is something this committee may have to deal with.

Mr. Sterling: In terms of saying who should be excluded, in my view there is not only the technical sense. You have to prove to the public. It has to be seen to be that way. Unfortunately, your guidelines--

Hon. Mr. Peterson: Seen by whom to be that way?

Mr. Sterling: The public.

Hon. Mr. Peterson: If that is the case, you have to say on the basis of the by-election that Mr. Fontaine is completely exonerated because the public to whom we all account has completely exonerated him.

Interjections.

Hon. Mr. Peterson: I am just using Mr. Sterling's logic, not mine.

Mr. Chairman: I have to step in here. This is one of the few occasions I have ever seen a witness badger a member of the committee. I have to protect my committee members.

Mr. Sterling: You know, Mr. Peterson, that the by-election was unnecessary. It was a sham and it cost us \$120,000 of taxpayers' money.

Mr. Chairman: It is also just a touch or two off the course of this inquiry.

Mr. Sterling: I did not raise it. The witness raised it.

Mr. Chairman: I am trying to save you, Norman.

Hon. Mr. Peterson: It gets to the question of whose opinion, Mr. Sterling, which is key to this whole conflict-of-interest discussion. I was just trying to illustrate my point.

Mr. Sterling: You have referred to the mistakes or the errors of omission that Mr. Fontaine made as technical. Can you explain what that means?



Hon. Mr. Peterson: As to the disclosure on the escrowed shares, which I gather he has testified he forgot about, one could argue that technically he should have declared those under the guidelines. There was no conflict of interest, but it was a violation of the conflict-of-interest guidelines. I am sure you appreciate the legal distinction of that. I gather he has testified that he forgot about it. One could argue that even if he had not forgotten about them, presumably he could have made the legal case that they were blind-trusted anyway because they were escrowed and he could not touch them. I think a lawyer could make that argument in court. As I said some months ago, one could construe that as a technical violation, a failure to disclose.

There were some other miscellaneous shares, as you know. I think you probably have the list of them. There was a share of a clothing store or something such as that.

Mr. Sterling: In his June statement, he disclosed shares of four more companies. When he appeared before this committee, he disclosed shares of five more companies. So there were more disclosed after January 31 than before. The present value of those shares is not very big--

Mr. Gillies: By-election amnesia.

Hon. Mr. Peterson: It was nonexistent.

Mr. Sterling: --but originally they were worth \$10,000 or more.

20:10

Hon. Mr. Peterson: He made a lot of bad investments. It was a mistake not to list those. I wish they had been, and there would be no problem, obviously. I am sure you know enough businessmen, Mr. Sterling. You have acted for enough. It is not beyond anybody's understanding that you can have a business, particularly a northern businessman who is very entrepreneurial and who may have invested a few bucks in a penny stock which went bad or something and is left in the bottom drawer. You can understand it. You cannot argue that he was trying to hide or that he had some nefarious purpose in trying to hide \$5.43 worth of some penny stock.

Mr. Sterling: We have heard about one circumstance where there appears to be a very direct conflict in the testimony. We have also had a continued litany of late disclosures: "I forgot 13,000 shares of my wife. I forgot these four corporations."

Mr. Chairman: Are you certain he forgot 13,000 shares of his wife? Do you want to rephrase that?

Mr. Sterling: That were owned by his wife.

Mr. Chairman: That is better.

Mr. Sterling: His excuse is that his accountant was taking care of this or his lawyer was taking care of it. When there are a number of technical things, they start to say to you that the intent was for him to avoid the guidelines. It seems to me he did not care or he purposely avoided them by just walking away from it. Some time along the line, he cannot continue to--if you want to call it--break the law and rely on the technicality of a mistake.

Hon. Mr. Peterson: That is something you have to form a judgement on. You can say he was deliberately doing that to mislead somebody about the profiteer or you could take a more charitable definition and say, "He was terribly sloppy and he should have been far more rigorous in his search of the old shoeboxes and safes in his house," or lawyers, accountants and all that kind of thing.

If you talk to business people, and I recommend it, that kind of thing is not completely beyond the realm of possibility. You will have to put your own construction on it, Mr. Sterling. I suspect yours and mine might differ a little. What is the possible point of him doing it?

Mr. Sterling: Pardon?

Hon. Mr. Peterson: Ask yourself, what is the possible point of it? A privateer with \$5.43 worth of some defunct moose-pasture stock.

Mr. Sterling: The point is, if a person is that sloppy or relies on technicality for ever and ever, then you assume that he has an intent at some time to avoid the situation by avoiding it.

Hon. Mr. Peterson: I think you are making a leap of logic there that is not warranted in the circumstances. Just because a person makes a mistake, you cannot imply that he is larcenous.

Mr. Sterling: At any rate, there is some direct evidence of a real conflict as well that we will have to draw our own conclusions on.

You have indicated to the public accounts committee that you are not going to release the Blake, Cassels report. You referred to that earlier.

Hon. Mr. Peterson: I am very happy to share it with you. It will come out with the Aird report in a matter of two or three weeks.

Mr. Sterling: But not in its original form?

Hon. Mr. Peterson: You will get exactly what I got from Blake and turned over that day to Mr. Aird.

Mr. Villeneuve: Supplementary to what Mr. Sterling was saying, are you aware that Mr. Martin on a number of occasions--a certain Paul Martin who is not disposed to appear in the witness box you are in tonight--

Hon. Mr. Peterson: I read that in the Globe and Mail, which I read every day.

Mr. Villeneuve: You do read every day. That is a switch. You have been slightly inconsistent on that one.

Mr. Martin is the president of Golden Tiger and they talked about flow-through shares and encouraging investment in mining. That is evidence. Mr. Fontaine has said he has spoken to Mr. Martin on a number of occasions. In your opinion, is that a conflict, particularly not having disclosed?

Hon. Mr. Peterson: He has spoken to him about what?

Mr. Villeneuve: About what you would say when you speak to a president of a mining company, when you happen to own 75,000 shares, I suppose. I do not know.

Hon.-Mr. Peterson: That is the problem. You do not know, I guess. I cannot surmise. Maybe they talked about the weather. I do not know what they talked about.

Mr. Villeneuve: We may never find out because Mr. Martin is not prepared to come.

As you know, I come from basically the same type of background as Mr. Fontaine, except that I am not nearly as wealthy as he is.

Hon. Mr. Peterson: Keep working. You will be.

Mr.-Villeneuve: At politics, sir?

Interjection.

Mr. Villeneuve: Do you feel that a French-speaking cabinet minister from northern or eastern Ontario could or should be treated differently, particularly when he happens to be the one and only member of a particular cabinet?

Hon. Mr.-Peterson: I think everybody should be treated the same.

Mr. Villeneuve: Mr. Fontaine's accountant told us he advised Mr. Fontaine that if becoming a cabinet minister would force him to sell his shares in United Sawmill, he should not do it. Mr. Fontaine's accountant advised us of this.

His accountant also stated that Mr. Fontaine seemed to be very pleased--as a matter of fact, he was relieved to be told--that he should sell his shares if he were to have to sit in cabinet. Subsequent to that, there is a letter from Mary Eberts, the final paragraph of which--

Hon. Mr. Peterson: Excuse me. I missed your second point. You said that he was relieved to find that he did not have to sell?

Mr. Villeneuve: That he had to sell.

Hon. Mr.-Peterson: He was told he had to sell?

Mr. Villeneuve: He was told by his accountant he had to sell--

Hon. Mr. Peterson: He was told he had to sell his shares of United Sawmill?

Mr. Villeneuve: --if he were to sit in cabinet, and if it meant that he had to sell his shares of United Sawmill, he was advising him not to sit in cabinet.

Hon. Mr. Peterson: That is the advice from his accountant?

Mr. Villeneuve: Yes.



Mr. Fontaine apparently reacted with some degree of relief and pleasure to that, and he is sitting in cabinet at this point. As I read Mary Eberts's letter, the very final paragraph which says, "I expect that you will hear from the Premier's office in due course concerning the change in the guidelines," it seems to me that you are accommodating someone.

Hon. Mr. Peterson: We discussed that earlier. We discussed how Mr. Wright had made a suggestion some time in the past. If you are suggesting, with this letter from Ms. Eberts, that the situation is unique for Mr. Fontaine, the answer is no.

Mr. Villeneuve: So you would have a number of other situations that would apply in almost the same manner to other ministers?

Hon. Mr. Peterson: We were updating and bringing the guidelines into conformity for suggestions that were received by an independent officer of the crown.

Mr. Villeneuve: As you may well recall, back in your opposition days, there was a by-election in Stormont, Dundas and Glengarry. I happened to have been fortunate enough to be elected--

Hon. Mr. Peterson: It was a great by-election.

Mr. Villeneuve: That it was. I am a little biased but I agree.

You brought to the floor of the Legislature on June 5, a statement in which you requested the Solicitor General to launch an investigation into the matter of the Stephen Ault letter posted on the bulletin board pertaining to a particular grant because, in your opinion, it was an indictable offence.

If I may refresh your memory, it was a \$500,000 grant towards a \$3.2-million expenditure at Ault Foods Ltd. It had gone through the mill and had been announced.

Hon. Mr. Peterson: That was announced during that by-election, was it not?

Mr. Villeneuve: It was.

Hon. Mr. Peterson: Just to refresh my memory, there was a letter on the bulletin board from Stephen Ault who was saying: "We got this money and we have created a lot of jobs here. It would be very nice to vote for these people."

Mr. Mancini: So all the workers could see it.

Mr. Villeneuve: It was noted on a public--

Hon. Mr. Peterson: A lot of workers had the day off on election day and the Ault jackets were working in the campaign. Is that the same situation?

Mr. Villeneuve: You are talking about this letter.

Hon. Mr. Peterson: I remember it.

Mr. Villeneuve: You asked for an Ontario Provincial Police investigation. There was absolutely nothing wrong with the grant, as you well know.

Hon. Mr. Peterson: Have you read the Criminal Code?

Mr. Villeneuve: That is--

Hon. Mr. Peterson: Any time there is a grant with respect to potential inducement to political favours, it is an indictable offence. It is section 115.

Mr. Villeneuve: You have quoted that here and I agree with that.

We have a situation here where a minister is granting from his own ministry to a company in which he owns shares, Golden Tiger. Would that not warrant an Ontario Provincial Police investigation?

20:20

Hon. Mr. Peterson: We thought we would have a tougher bunch of rascals with this committee looking at it. It is all open and public. He is here to talk to you. If you have any evidence, a prima facie case of anything, then please mention it.

Mr. Villeneuve: In my nonlegal opinion, this certainly seems to be a much greater--

Hon. Mr. Peterson: You may want to check with a lawyer on that, because I do not think there is any suggestion that he participated in any grants to any company he had any shares in.

Mr. Villeneuve: This is what we are here to analyse.

In your opinion, there has been no change in your personal political morality from opposition to Premier.

Hon. Mr. Peterson: I have become much more moral since I have become the Premier.

Mr. Martel: Did you say "immoral"?

Mr. Chairman: I sense we have a pearl coming in from Mr. Callahan.

Mr. Callahan: I am going to pass. I think that last answer was enough for me.

Mr. Chairman: Bless you.

Mr. O'Connor: I have two brief matters. I believe in the House you made reference to a review you had ordered by Mr. Robinette.

Hon. Mr. Peterson: Yes.

Mr. O'Connor: Can you tell us the status of that and when it will be completed?

Hon. Mr. Peterson: Actually, that sort of was subsumed. As I said, I was watching the Sinclair Stevens thing--and I share with you, Mr. O'Connor, that these kinds of things worry me, because I remember the defence that the federal Conservatives were using at the time, saying they complied and the Registrar General had given his imprimatur apparently to Mr. Stevens's situation. I think that was the defence Mr. Nielsen was using.

I was watching this night after night. I said, "Well, gee, we could use the defence, if we were attacked, that Mr. Wright said everything was all right," but that does not necessarily make it right in the public mind. I started to worry about these things. With no information or knowledge but just trying to anticipate, I phoned John Robinette and said, "Mr. Robinette, would you look at this situation and the conflict-of-interest guidelines?" He said, "Sure, I would be happy to." We sent him down a lot of information; Mr. Wright, Mr. Carman and others sent him down a lot of information. It was not a crisis, but it was one of the things I wanted to look at. He was going to do this as a summer project.

Mr. O'Connor: In 1986?

Hon. Mr. Peterson: Yes; this summer. But then all this matter blew up--I do not know when it was, May or June, when we started in on all this--in June, when all these questions started being asked, and there was a certain urgency to the question. That is when we brought in Blake, Cassels and Graydon and Mr. Aird. We thought we should have a public kind of look at the situation and share the information with everybody. Mr. Robinette is doing some reporting to Mr. Aird. He is working with Mr. Aird.

Mr. O'Connor: To summarize, Mr. Robinette is not therefore making a report back to you, but he is co-operating with Mr. Aird and working with him.

Hon. Mr. Peterson: Yes. He is working with Mr. Aird.

Mr. O'Connor: One last matter. You are now the acting Minister of Northern Development and Mines, as I understand it.

Hon. Mr. Peterson: And Minister of Intergovernmental Affairs.

Mr. O'Connor: Minister of Intergovernmental Affairs and a few other things. We heard evidence that the two tax credit situations for which Golden Tiger had applied, one for \$23,000 and one for \$187,000, I believe, were being held in abeyance. Did you have anything to do with that decision or with the making of that decision?

Hon. Mr. Peterson: No. That was a purely bureaucratic decision made, I gather, by Mr. Tieman. It was like the decision on the forest management agreement; it comes along in a very controversial situation and it just sort of adds confusion. No, I did not make that decision. He did, and I gather he is still holding it up.

Mr. O'Connor: Do you agree with the decision?

Hon. Mr. Peterson: In the circumstances, yes. I think he used good judgement. Can you imagine if that thing had gone in the middle of this? What would you have done in the opposition, Mr. O'Connor?

Mr. O'Connor: We wish it had.

Hon. Mr. Peterson: Well, let us practise that one.

Mr. O'Connor: One last question, if I may.

Hon. Mr. Peterson: We make mistakes; we are not into committing suicide.



Mr. O'Connor: This committee passed a resolution requesting you to hold up those grants and the processing of them until Mr. Martin appeared before the committee. Are you prepared to continue--I assume you are--with that request not to make those grants available pending the outcome of our committee hearings?

Hon. Mr. Peterson: I have thought about that. I thought perhaps you would ask me that question. I am most anxious that you get a full and open hearing here and talk to whomever you like. I do not honestly think I am in a position to promise you that, because I cannot guarantee it.

I am told on advice that Mr. Martin may have a legal right and indeed could possibly sue the government. So in a sense you are making me an agent of you. I have to deliver the writ for you and produce this body, which I have no legal right to do. On the other hand, I am getting sued.

As much as I would like to have Mr. Martin here so you could have all the pieces of the puzzle, I am not in a position to give you that legal assurance, because I cannot promise you something I cannot deliver.

Mr. O'Connor: I believe we heard evidence that the ultimate discretion to make those grants lies with the minister. Could you not exercise that discretion as Minister of Northern Development and Mines and withhold the grant?

Hon. Mr. Peterson: No. I am told there is probably a legal right to that, and you can probably anticipate some legal action on that matter.

Mr. Chairman: You are aware that we have offered our services to present him with the money? The cheque is here; when he appears, we will give it to him. Fair enough?

Hon. Mr. Peterson: That is a cunning suggestion. I had not heard it.

Mr. O'Connor: I would just leave you with this thought, Premier, as the minister of mines: There appear to be ways in which Golden Tiger may not be complying with the laws of Ontario; that is, it does not appear to have appointed, as I believe is required under the Corporations Information Act, an agent to represent it in Ontario for purposes of service of documentation. Since it has not complied with our laws in that regard, you might find some way available to you to withhold the grants. I am suggesting some exploration might be made of that kind of suggestion. I think it would be most improper to make those grants, to our loss, in the circumstances of this man's attitude.

Hon. Mr. Peterson: I can tell you I was reviewing matters of the ministry with Mr. Tieman today, and I asked about that particular situation. He said he is holding them. I said: "Can you hold them for a long time? Can you use them as leverage?" He said: "No, probably not. We could very well be sued on the matter. You put me in an embarrassing situation that way." If I had any moral influence, I would try to persuade him to come here, but I cannot promise I could deliver him.

Mr. Martel: Was not that fellow serving you papers tonight?

Hon. Mr. Peterson: Just a minute now. I do not know who this chap is; it is not Mr. Martin, as far as I know.

Mr. Martel: He could be Mr. Martin's agent or something like that.

Mr. O'Connor: If Mr. Tieman feels he has no authority to withhold the moneys ultimately, on what grounds is he doing it right now?

Hon. Mr. Peterson: I guess it is kind of fuss prevention.

Mr. O'Connor: Can he not continue with that kind of--

Hon. Mr. Peterson: I guess he has some discretion with respect to the timing, perhaps not an absolute discretion with the payments; I gather there is a statutory entitlement. That is my understanding.

Mr. O'Connor: Thank you.

Mr. Warner: I have just one question. Mr. Wright brought it to our attention recently that regardless of whether Mr. Fontaine is returned to the cabinet, the moment the FMA goes through he will be in a conflict-of-interest position and must either resign from the Legislature or sell his shares.

Hon. Mr. Peterson: Do you mean we need another by-election? I am sorry; help me out with that. I do not understand what you are asking.

Mr. Warner: Mr. Wright's advice was that by the Legislative Assembly Act, if the FMA goes through, then Mr. Fontaine is in a position of being in a conflict of interest. He must then either sell his shares, sell the company--I suppose he could still become a minor shareholder of it, but he cannot be a major shareholder--or resign.

Hon. Mr. Peterson: I gather he is a minority shareholder now. I do not know. Is he a majority shareholder?

Mr. O'Connor: United Sawmill owns 29 per cent of Hearst Forest Management Inc., and I believe he is a major shareholder of United Sawmill.

Hon. Mr. Peterson: I think he is a minority shareholder of United Sawmill, but I do not know.

Mr. Warner: Mr. Wright's advice to us was that that is the situation he would be in if his grant--

Hon. Mr. Peterson: That is news to me. My responsibility and his responsibility is to comply with the law. If that is the case, we will have to govern ourselves accordingly.

Mr. Warner: As you have probably picked up tonight, one of the things that is bothering the committee members is that throughout this whole experience it would appear that Mr. Fontaine is not the least bit upset or feeling remorseful about what has happened, in which case the conflict could continue.

20:30

Hon. Mr. Peterson: Let me try to lend my insights. I think Mr. Sterling mentioned the same kind of reaction. I can tell you, that is not my sense. This has been extremely hard on him. He is a very religious, very moral man, as you know. He and his wife and his family took this charge very seriously.

I ask you put yourself in the same position, whether the charges are right or wrong, where someone says, "David Warner, the member for



Scarborough-Ellesmere, did this, that or the other thing." This is something you carry with you for the rest of your life. It will always be part of the footnote.

As tough as we all think we are, these things are extremely hard on us personally. I do not know any of us who is that tough to get around these personal charges, and when you mention conflict of interest, there is the automatic labelling goes with it.

My assessment is that is he is a contrite man. He has learned a great deal from this situation about the precision of detail. Frankly, if he had not had his very strong faith and his deep commitment that he was not doing anything wrong--he believed that--then he probably could not have survived this thing as well as he did.

Mr. Warner: I appreciate that. Your observations are quite good. I do not think there is anybody here who does not understand what you have mentioned or is not sensitive to that. Why I raise it is that when this committee is finished and we have a report--soon, I hope--that may not solve the problem.

Hon. Mr. Peterson: It may not.

Mr. Warner: If the FMA goes through, for example, then regardless of what the committee report is, it could resurrect the whole conflict-of-interest stuff all over again. Quite frankly, it does not do you or me one whit of good to have a member of the assembly charged with that kind of thing, conflict of interest. It demeans each of us in trying to fulfil public service.

I raise it because, aside from what the committee does, there will still be a leadership responsibility on behalf of government to make sure there is a different atmosphere.

Hon. Mr. Peterson: Look, you have given me information I was not aware of tonight. Obviously, a couple of things will intervene.

First, there is the independent view of the FMA by Mr. Spooner and Mr. Baskerville. The cabinet will have that advice. It will have to make a judgement on that basis. Obviously, we will have to figure out this question of the Legislative Assembly Act, which I never--when Mr. Fontaine is ever reappointed. All those things are question marks at the moment.

Another variable is Mr. Aird's recommendation and the subsequent rules this committee decides to adopt in the future. I agree with you; these things are part of the process. I get no joy out of this. For me, frankly, this has been the most difficult part of the past year. These are people I like, people who are friends, accused of pretty serious things. It is no fun to see your friend like that.

Mr. Warner: This is not my idea of fun either.

Hon. Mr. Peterson: No. So I get no joy out of this. But I have always said, all the facts must come out. Ultimately, we will be judged by the people of this province on the mistakes we have made and the way we have handled them; and believe me, we have made lots of them.

Mr. Callahan: Following up on that point, I have been sitting on this committee the odd time. I was here when Mr. Wright gave his testimony and when Ms. Eberts gave hers.



You may recall that I brought to the attention of the committee the fact that there was a difference of opinion between Blenus Wright and Ms. Eberts as to just what the Davis guidelines contained and what the Peterson guidelines contained. In fact, I raised it in the following statement--

Mr. Chairman: He is going to read the Hansards again.

Mr. Callahan: That is what you asked me on that occasion.

Mr. Chairman: Are you suggesting something?

Mr. Callahan: No, but it is relevant. It corrects what Mr. Warner is saying. I said:

"A further supplementary. I just want to clarify something Mr. Wright said. I gather that under the Davis guidelines, if a cabinet minister had held a beneficial interest either through a corporation or whatever in a particular commodity or business that had an effect, directly or indirectly, on his ministry, it was permissible that he continue to have those"--

Mr. Sterling: In a public corporation?

Mr. Callahan: Just a second--"and all that would happen would be that another minister would be asked to make decisions with reference to whatever that benefit might be."

Mr. Wright's answer was--and I am quoting from the Hansard of Mr. Wright--"That is right." Then I asked him a further question, "That was under the Davis guidelines?" Mr. Wright said, "Yes." I asked him a further question, "That continued under the Peterson guidelines?" The answer was, "Yes."

The reason I raised it was that there seemed to be some misunderstanding. Ms. Eberts told us she was doing a dry run initially and the fellow who was to give the final advice was Blenus Wright. That was his responsibility and had been throughout the Davis years. If they did have two different opinions on it, it may very well be that a lot of confusion was created in terms of what Ms. Eberts was doing. She was not advising him; that was not her job. She said that very clearly in her testimony.

I just want to correct what Mr. Warner had said because that was not my understanding.

Mr. Warner: I do not want him to re-read the rest of Hansard, but later on in the testimony by Mr. Wright we went over it a couple of times with him. Please do not re-read Hansard.

Mr. Callahan: That is where it is supposed to be.

Mr. Sterling: I submit that Ms. Eberts and Mr. Wright agreed with each other, because they were both referring to a public corporation and an interest in a public corporation. Blenus Wright, in talking about the Legislative Assembly Act, was talking about a private corporation and a major interest in a private corporation. I think Mr. Callahan refers to Mr. Wright's testimony when he was talking about that. They were talking about Golden Tiger and that is a public corporation. That is the distinction I think we should explore.

Mr. Chairman: Are there questions to the witness? That being the case, we thank you, Mr. Premier.

I have one favour to ask of you before you leave. You were served with some papers just prior to the committee and I ask you if we could have those papers.

Hon. Mr. Peterson: Could I do that? In case I have to appear in court some day, would you just send a copy up to my office? You take yours.

Mr. Chairman: We will look after it. Yes.

Before we adjourn, I have two things to bring to your attention. One is this is the last piece of paper you have asked for. This is the letter from Mr. Tieman where he attempts to identify who made the notation, "Resigned to become mines minister." Apparently, that was made on the application before it was received. The word "revised" was written on the application by staff of the ministry. We will send you copies of that. That is the last piece of paper you have requested.

Second, Mr. Tough has agreed to appear before the committee. It will be Wednesday evening.

Clerk of the Committee: No.

Mr. Chairman: Mr. Rachamalla is Wednesday evening and Mr. Tough will be Thursday evening of next week. Mr. Tough has agreed to appear before us next Thursday evening and Mr. Rachamalla has agreed to appear before us next Wednesday evening.

Mr. Warner: At seven o'clock?

Mr. Chairman: It will be in the evening. Seven o'clock would seem a reasonable hour to me.

Mr. Mancini: I am sorry I am not in my seat. I just wanted to have a private chat with Mr. Warner about something not to do with this committee's business.

I understand we will sit next Wednesday and Thursday, which will make it very difficult for the committee to agree to sit on Friday to consider any possibility of writing a report, which means we will be into the week of September 8. Unfortunately, that means I will not be able to be around. I want to express my deepest regret at this, I really do.

Mr. Chairman: Let me clarify it. There is a motion on the books which calls two further witnesses. I indicated at the time that we were preoccupied with other business, that is the hiring and the recommendation of a new Clerk for the assembly next week. As has been our custom so far, we have done this by invitation and at the convenience of the witness. In contacting the two witnesses who remain to be called before the committee, one has indicated Wednesday evening would be convenient. Mr. Tough comes back from holidays on Tuesday and he asked for a day or so, so he said he would be available on Thursday evening. The motion is on the books that we call these two witnesses. In getting them before you, these are the first two occasions when we can do that. If you want to change your mind on that or you want to call him at a different time, we could do that.

I just caution you that we have agreed we will set aside that first week in September to hire the clerk. That process is pretty much in motion. It would be difficult not to proceed with it, not to mention awkward in that we



were anticipating that a new Clerk could be appointed for the beginning of the fall session. That is not to say the schedule could not be rearranged; it is just that it really has to happen that week.

20:40

Mr. Sterling: Do we really need those two witnesses?

Mr. Martel: With everything we have before us, I am wondering if it is not possible to start the draft report Tuesday of next week.

Mr. Sterling: Are we not dealing with the Clerk next week?

Mr. Chairman: We have two items of business that we continue with. One is the hiring of the Clerk. We have not set the days for interviewing but it would be next week. The other is we would continue with the Fontaine matter until such time as we have concluded.

Mr. Sterling: I have no problem with next week. The other matter is that we just got notice of those documents from the regional offices. I have not had a chance to look at them, and the caveat on the two witnesses was that I had a chance or somebody had a chance to go through those documents just to see if there are any problems with those. They are all here now. We have asked for them. They have been produced. In my view, it would be a shame not to at least consider that.

We are all going to be here next Tuesday?

Mr. Chairman: We have next week and the week of the eighth, ninth, and tenth that we can meet.

Mr. Warner: Why not, if we have a full week, when we meet next Tuesday, we could determine whether or not--you have had a chance to look at the documents and so on--it is necessary to call for those witnesses? Then we can tidy stuff up at that point. If the witnesses are required at that point, we can discuss it. We know both of them will be in the city because they will be back at work after holidays. That allows the staff an opportunity to get started on the preliminary draft or the draft of the report. It gives us a chance to go at the hiring thing.

Mr. Chairman: Let me put it this way. Is it still the committee's intention that you want to hear from these two witnesses?

Mr. Sterling: That is still our intention at this stage.

Mr. Chairman: That is the motion that has carried.

Mr. Martel: Tuesday morning you will indicate to the committee having reviewed the documents whether or not it is your intention to request that the witnesses do in fact appear and should you choose not to have that, that you are prepared to start working on the report Tuesday.

Mr. Sterling: I have a real problem with Wednesday and Thursday of next week. I was not counting on us going through this report next week. I thought we were going to be dealing with the hiring of the Clerk next week and, therefore, that was how I had set my business schedule up.

Mr. Chairman: The difficulty I have is I am trying to accommodate all members on the committee. Mr. Sterling has a problem if we proceed with



this next week. If we go into the following week, Mr. Mancini has a problem in that he has sat through all of the testimony and all of the hearings all summer long and he will not be able to be present when we come to a final vote on the matter.

I am going to put it to you that no matter when we do this we are going to cause problems for some people, but we began the process by saying that we wanted to have, as much as we could, all members hear all testimony, and almost logically to me we want those who heard the testimony to be participants in the writing of the report.

Help me out here.

Mr. Mancini: Mr. Chairman, without in any way trying to be controversial, I think we have been very good, myself and my colleagues, at trying to accommodate everybody. We could not sit this afternoon as I had suggested because we had to accommodate somebody. There were times previously we could not sit because we had to accommodate somebody. Frankly, I am very skeptical as to what new evidence these two people that we are calling again are going to give to us or how that is going to have any bearing on the final results of our report. Now we have Mr. Sterling raising the problem that he cannot be here next Wednesday or Thursday. Our people have been here day in and day out--

Mr. Sterling: Hold it, the motion is there. I thought I was being somewhat accommodating in saying let us look at it on Tuesday morning.

Mr. Mancini: But then you said you could not be here on Wednesday or Thursday. Did I not hear that?

Mr. Chairman: Just hold it. Let me try this as a matter which might accommodate. Would it be a reasonable thing to set aside the Tuesday morning of next week if you decide you want to hear the witnesses, and we will attempt to get them here Tuesday afternoon or late Tuesday morning, if that is possible?

Mr. Villeneuve: Tuesday is the day after a holiday.

Mr. Chairman: That is right. Hear this out and let me see if I can find an accommodation here.

If you want to call those witnesses, I would like all members to be here. I certainly want all members to be here if we are going to proceed to finalize the report. As we said previously, we have asked the staff to begin to draft the report in terms of statements and facts and all that. What is left to be done is the conclusion of the report. If it is preferable, we can set aside the Tuesday to deal with this matter.

Mr. O'Connor: I cannot be here Tuesday during the day. I can be here Tuesday night.

Mr. Chairman: You can be here in the evening, though?

Mr. O'Connor: Tuesday night or Wednesday night.

Mr. Chairman: Is it conceivable that we can proceed to draft the report and hear witnesses during the day and conclude in the evening on Tuesday? Is that a reasonable way to proceed?

Mr. Martel: No. I cannot be here Tuesday.

Mr. Bossy: In view of the indecision about who can attend on evenings or afternoons and in view of the fact that Mr. Sterling has said he is going to review the documents he has been presented with and will give us an answer on Tuesday morning, I say again that I am willing to concede. Let us wait until Tuesday morning and have Mr. Sterling then make a decision. He may make the decision that we do not have to see those witnesses. We can give him that option until Tuesday morning. Let us make a decision on Tuesday morning at 10 o'clock.

Mr. Chairman: I am afraid, though, I cannot operate that way. I have to work with the subcommittee tomorrow morning to decide who will appear in front of us for the Clerk's appointment. We will have to give these people notice. We cannot say to them to come Tuesday or Wednesday if the committee feels like it. Some will be coming from a fair distance. If you want to set aside Tuesday to hear witnesses and begin drafting the report, you have to tell me now. If this is a reasonable way to proceed, I am sure that if we need three whole days to interview applicants, we theoretically could do it Wednesday, Thursday and Friday. It is possible we could do it in two days.

Mr. O'Connor: Who is interviewing the applicants?

Mr. Chairman: The committee.

Mr. O'Connor: All of us?

Mr. Chairman: The whole committee will interview those the subcommittee will recommend tomorrow. Let me know now. Frankly, I need some help.

Mr. Martel: I think we should proceed with what I started--and Mr. Bossy, I think, is agreeing--that Tuesday morning we go over the stuff. If Norm decides, on the basis of what he is going to get when he digs out, that he does not wish to call the witnesses, we can start to draft the report Tuesday morning. If not, Tuesday will be available for us to review some of the applications.

Mr. Chairman: We cannot do that, though, Elie. That is the problem. I have to tell people from out of town when to come.

Mr. Martel: I know. I am suggesting that the first witnesses we hear would be on Wednesday--not witnesses.

Mr. Chairman: The first applicants.

Mr. Martel: Yes. They would appear Wednesday.

Mr. Chairman: All right. Is that a reasonable way to proceed? Tuesday morning we will enter into deliberations on whether we need to hear witnesses and whether we will proceed to finalize the report. On Wednesday and Thursday, we will hear the applicants for the Clerk's position. That is how we will order the business for next week. Is this agreeable?

Mr. Martel: It is agreeable.

Mr. Chairman: All right. We are adjourned until Tuesday at 10 a.m. when we will have all the documents. We will attempt to get the witnesses available some time on Tuesday.

The committee adjourned at 8:48 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CLERK OF THE LEGISLATIVE ASSEMBLY  
ALLEGED CONFLICT OF INTEREST

TUESDAY, SEPTEMBER 2, 1986

Morning Sitting





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Also taking part:

Knight, D. S. (Halton-Burlington L)

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Tuesday, September 2, 1986

The committee met at 10:18 a.m. in committee room 1.

CLERK OF THE LEGISLATIVE ASSEMBLY

Mr. Chairman: We are ready to proceed with the report from the subcommittee on the hiring of the Clerk. The recommendations for the procedures are that we do the interviews in camera and that we use a rating scale. We do have one prepared that we will circulate for you today. It is a scale for your information purposes only. It was thought it would be helpful if we could use some kind of a rating scale to assist us eventually in putting a motion for adoption by the committee.

Mr. Treleaven: That is a rating scale for us all to use?

Mr. Chairman: Yes. In terms of process, we thought it might be appropriate to have the chairman start the questioning and the Speaker conclude the questioning. We are trying to allocate about an hour for each candidate so there will be a reasonable amount of time for each member to participate.

At the end of it, the subcommittee will meet to review the ratings given to each of the applicants by the members and to prepare, if possible, a motion to be accepted unanimously by the committee. We cannot be too hard and fast about that because it may not be possible, but we wanted to make it clear that the concept was to find a candidate who was clearly acceptable to everyone. If push comes to shove, we cannot put a requirement that the motion carry unanimously, so it may not happen. If that were a problem, the subcommittee would have to find a way around it.

It is our recommendation that the status be at the deputy minister level, with a starting salary of \$77,900. We had some discussion about the definition of "at pleasure" and what might be done. The legal opinion I have from legislative counsel is that the current wording of section 74 does provide a clearer definition of "at pleasure," that is, that a motion could be put and the Clerk could be removed from his office by motion of the House. We may continue to review that section of the act; for example, other assemblies have defined a process whereby the Clerk could be removed.

We have seven candidates to recommend and we are suggesting the candidates be brought in at approximately one-hour intervals, that we have Wednesday and Thursday morning of this week to interview people and that on Thursday afternoon we may be in a position to put a motion to you. There are a couple of caveats I would put on the end of that.

If it is possible to put that motion Thursday afternoon, we prefer to do that, but it occurred to us subsequently that some candidates may require a bit more time to give us an answer on whether they would accept the position. If it is possible, the recommendation from the subcommittee is that we will interview Wednesday and Thursday morning, and by Thursday afternoon, we will be prepared to put a motion for carrying unanimously. The only hiccup in that

is that if the successful candidate requires more time to give you a definitive acceptance of the job, you obviously will not want to put the motion until you had some assurance that the candidate is prepared to accept. I think you will also want to know at that time when the candidate can occupy the position.

In general, those are the recommendations of the subcommittee. In the selection process, we tried to get a consensus of agreement on the candidates who ought to be brought in for an interview. We were mindful of the fact that for many of them it involves some travel and some inconvenience; so we tried to get it to the point where there was clear consensus on the candidates to be interviewed.

There is one other little problem before we have a discussion about this. I ask you to keep the names of the candidates in confidence for now; some of them did write to us in confidence and we would try to respect that for as long as we could. That is really the only reason.

The next stage would be to take a motion to adopt the report of the subcommittee.

Mr. Treleaven: May I ask some questions?

Mr. Chairman: Then we would entertain some questions about it. Do I have a motion to adopt the report?

Mr. Sterling moves the adoption of the report of the subcommittee. Any questions from members of the committee?

Mr. Treleaven: First, Mr. Chairman and members of the committee, I apologize. I was supposed to be on this subcommittee but with the GM-Suzuki announcement on Wednesday morning, I knew where my duty lay and I had to be elsewhere.

Mr. Sterling: You probably had lunch there too.

Mr. Treleaven: Yes, I had lunch there.

Mr. Morin: Did you drive a Mercedes?

Mr. Chairman: You drove a Volvo right up.

Mr. Treleaven: No. I drive a GM so I was fine. The list is very short--the list of seven. What criteria were used to arrive at seven? There must have been about 45 applicants. First, what criteria were used to arrive at this very short list?

Mr. Chairman: The process was a fairly straightforward one. We simply asked each member of the subcommittee to nominate people who they thought should be invited for an interview. That generated a list of about 12 or 15, something like that.

We then went through it and where there was agreement on who should be brought forward, that brought it down to about 10. Basically, we entertained some discussion on where we could get even further consensus. That got us to a short list in a hurry. There was remarkable consistency among all three members of the subcommittee in the choices of who should be brought for an interview.



Mr. Treleaven: The criterion used was consensus?

Mr. Chairman: No, to be blunt about it, the criteria used were who had the academic background, who had experience and who demonstrated in his résumé essentially those qualifications we thought necessary for a good Clerk.

Mr. Treleaven: Experience as what?

Mr. Chairman: Experience as a table officer, experience in the parliamentary situation, some familiarity with the parliamentary process.

Mr. Treleaven: Okay. Getting to the weighted voting, that is probably not the exact words--

Mr. Sterling: Just before we leave that. In terms of the seven candidates, I did sit on that subcommittee in place of Mr. Treleaven.

My feeling was that, notwithstanding our choice, we should entertain perhaps at the end of the interviewing of these seven candidates that all the résumés be available to any member of the committee who would want to go through them and who felt strongly about an individual. An argument could be forward by anyone at some stage of these proceedings anyway.

It was my feeling that we were not necessarily cutting it off. We are trying to be practical in terms of the time spent with these individuals so that we would remember the first one when we did the last one.

Mr. Martel: It would certainly be helpful to members of the committee to see the résumés of the short list at least before--

Mr. Chairman: You will.

Mr. Martel: When are we going to get a copy?

Mr. Chairman: Today.

Mr. Martel: Today. As it stands, I am operating in a vacuum.

Mr. Treleaven: What is the difference, Elie?

Mr. Martel: For the lawyer from Oxford, there is a lot of difference.

There is a name missing that I thought might be on there. I have a funny feeling about it. Unlike Mr. Treleaven, I do not want to go through 45 applicants; that is what the subcommittee is for.

One might want to look at the 10 or 12 you zeroed in on and those that were eliminated. I do not want to see them all, but personally I would like to see the seven and maybe the five you discarded or ruled out, as the others you said had been sorted out. I would like to get a look at the seven we chose and the five who were subsequently eliminated because there must have been some question, some support or some reason that some wanted four or five other people and were not satisfied. I am sure those will be the four or five we can look at next.

Mr. Sterling: Mr. Chairman, I do not think you as a chairman of this committee should indicate who those five individuals are or any other number. I would refer to Mr. Warner, if Mr. Martel requires some direction that way. As a member of that subcommittee, we all decided together that those seven were there and therefore the reasons for the other ones being eliminated--

Mr. Martel: You said it yourself. You contradicted what you said.

Mr. Sterling: No. I said I would give you all 45 of them.

Mr. Martel: I do not want to look through all 45 of them.

Mr. Sterling: Speak to Mr. Warner.

Mr. Chairman: I guess the alternative would have been that every member of the committee went through the 45 résumés and we interviewed 45 people. What we tried to get was a consensus of who without question--let me put it that way--was someone who should be interviewed, and we did not start with any number in mind. If there was any numbering in the process, it was simply that the person who would be in front of the committee tomorrow and Thursday would be someone about whom there was absolutely no hesitation on anyone's part that this person was well qualified and ought to be brought in for an interview, and that would be it.

Mr. Martel: I appreciate that and I feel the same way. I do not want to look at them all, but you said it broke down into two categories: those who were included and then you eliminated some. Let us say that on the first seven you did not reach an agreement, just hypothetically. The next group you would look at would be those who still had fallen into the easy category of putting them in because of their experience as table officers and so on. I do not want to look at somebody who has never been around Queen's Park or some other Legislature and all of a sudden he shows up.

Mr. Chairman: Any other questions?

Mr. Treleaven: Who will be counting the votes?

Mr. Chairman: The Speaker. There will be no votes per se until one final motion is put. We opted for the technique of using rating charts during the course of the interviews. I ask that at the end of each interview those charts be gathered by the Speaker, and the Speaker--perhaps with me as an assistant or something--will do a little tally.

We are attempting to do something which will ensure some confidentiality through here. We are looking for consensus from all members. It may not be possible to get that. It may well be that on Thursday afternoon at the conclusion of the interviews it is clear to all of us that we do not have one clear person who would stand the test of a unanimous vote, which is quite difficult to get. The subcommittee would then have to meet and come back with some further recommendations to the committee, which may include more advertising, more interviews and a longer process. We are attempting to put together a short process which allows the committee to interview at some length a short list of people.

Mr. Sterling: I have to interject here. When we were talking about the rating list, I did not think that was for the purposes of the Speaker or the chairman. I thought that was for Norm Sterling or any other member of the



committee so that he would be fair to the first applicant and every other applicant and then he could go back over his own notes and review.

Mr. Chairman: I see.

Mr. Sterling: Quite frankly, I do not think I am competent to express my feelings to somebody else in terms of the rating I have given a particular individual.

Mr. Chairman: Maybe I could clarify it this way. The rating system is not meant to be anything much more than a rough guide.

Mr. Sterling: I think it should be a rough guide to ourselves. My six may be equivalent to a nine of somebody else.

Mr. Chairman: The problem is that if the subcommittee is required to put a motion on Thursday, we need some information to put that motion, and the members will have to indicate their preferences in some way. The rating guide would be an obvious option to you. You may want to simplify it somewhat and use a scoring system or something such as that, but we need some indication from the members of the committee about your preferences.

10:30

Mr. Treleaven: I take it this is a numerical rating chart.

Mr. Chairman: Yes.

Mr. Treleaven: Then numbers only are required, not comments.

Mr. Chairman: That is right.

Mr. Treleaven: That is by the Speaker and perhaps yourself. We will be having discussions during this time when you are trying to arrive at the unanimous decision.

Mr. Chairman: Yes.

Mr. Treleaven: I hope all staff will be excluded, and not only when we are in camera.

Mr. Chairman: That would be a bit abnormal.

Mr. Treleaven: We have an abnormal situation here.

Mr. Chairman: We can surely entertain that motion.

Mr. Treleaven: There can be no more than one winner, and everyone else in this group will be unhappy.

Mr. Chairman: I do not see it that way.

Mr. Treleaven: I must "do business" with a lot of people around here after a Clerk is chosen.

Mr. Chairman: I think the committee would reserve the right to go in camera without staff for purposes of discussing a motion, but during the course of the interviews we have--



Mr. Treleaven: That is fine during the interviews, but I am saying during some of the discussion.

Mr. Chairman: Yes, the committee always has that right.

Mr. Treleaven: It is nothing against their brand of deodorant, cigarettes or anything else.

Mr. Chairman: The staff may want to exclude members from time to time.

Mr. Treleaven: Probably most of the time. All right; thank you.

Mr. Villeneuve: The first question will be, do you smoke?

Mr. Morin: I think the rating approach is the best one. When it comes to a vote, I am afraid it could become a popularity vote. A rating is used anyway. Perhaps that would be the only approach, but what happens if it is a tie?

Mr. Chairman: What we wrestle with a bit is that we hope through this process it will become clear that there is a person who enjoys much more support from the committee than does not. The reason we stepped in a bit to have the subcommittee meet again at the end of the interviewing process was precisely to address that. If there is a clear indication that one person predominates, we will feel quite comfortable in saying, "Here is what the motion will look like, and here is the person's name." We would put that in front of the committee. If it is not clear, we will want to come back to the committee and say, "We had better entertain some discussion about this among ourselves."

We do not want to have a vote that comes out six to five in favour of this person being the new Clerk. That is hardly an auspicious way for the Clerk to start out, and as Mr. Treleaven has delicately pointed out, it would create some problems for members here afterwards.

We are looking for the consensus. We hope it will appear. If it does not, the subcommittee will have to entertain some discussion and come back to the full committee for guidance.

Mr. Treleaven: What is the yardstick? You have outlined one of them. Let us say the Speaker is reading through this consensus numerical rating chart, and the one extreme situation is that we come up with two of them tied with six, or six to five; it is not a clear indication. The other one is on some yardstick, say 20, and the next vote is six. What are our indications to him?

If it is a 20 and nobody else is above six, it is quite clear the consensus is reading that one person. On six to five or 10 to five, where is the consensus clear?

Mr. Chairman: If the ratings were even close, I would suspect the subcommittee would want to come back to the full committee and say, "There are three people who are very close in your ratings, and we would like some discussion among the committee in private to indicate which of those three is your preference." The object is to get to a vote that would carry unanimously in the committee. At that time I would say that if any member of the committee

has a serious objection to the nominee, then it becomes incumbent on the rest of the committee to try to either meet those objections or to find another candidate. Those are the implications of trying to get a vote that will carry unanimously.

Are there any other questions?

Mr. Martel: Could we just pin it down? I do that for a reason. I would move that during the discussion on hiring, there be no staff here.

Mr. Chairman: That is fine as long as you acknowledge that during the interview process we will require some staff.

Mr. Martel: Yes. Right.

Mr. Chairman: If we have discussions on individual applicants who would be named in the motion, then I would say that is more appropriately done in private, which is essentially the technique we used in the subcommittee.

Mr. Martel: The problem is that when I was on the board and we were choosing staff, I voted for someone, not against someone, but around Queen's Park it was said I was voting against someone. I did not go out and say who I voted for, but it was obvious and it left some unhappiness that I was voting pro and yet it came out just the opposite. I do not think that serves anybody.

Mr. Chairman: We can take that as notice. If during the course of this process the committee were to require some internal discussion concerning an individual applicant, the procedure or whatever, we would entertain a motion to exclude staff. That is fair enough. I do not think the staff would want to be part of that.

Motion agreed to.

Mr. Chairman: We will proceed with the interviews as outlined in the report.

The next order of business is that we indicated at the conclusion of Tuesday evening's meeting that, first, Mr. Sterling would indicate whether he wants to call the remaining two witnesses for which we have motions. For your information, the witnesses are available this afternoon and could attend. If it is your preference to carry on with that motion, the witnesses can make themselves available this afternoon. Mr. Sterling indicated he would tell us whether he felt it was necessary to hear from those two witnesses. I will give him first crack at the floor, or Mr. O'Connor, whichever voice is speaking.

Mr. O'Connor: I came here this morning having thought about this matter to a considerable degree late last week and over the weekend. I came prepared to say we had heard enough and were prepared to waive the additional witnesses and to get on with the writing of the report.

Our caucus met, as we have in the past, this morning prior to the committee meeting and we had summarized for us by our research staff some of the documentation that was given to us at our request from the district and regional offices of the Ministry of Natural Resources. It was a voluminous package of information, as you will recall; it required some work to go over it. Thus, the results were only available to us this morning.



It appears from that material that a number of things have occurred. It appears that notwithstanding Mr. Fontaine's indications in the House and to this committee that he, after his election, had nothing to do whatsoever with United Sawmill Ltd. or with the Hearst Forest Management ongoing negotiations, that is simply not the fact. There are letters and memos from ministry staff, specifically one W. H. Therriault, who is the district manager for Hearst, to the effect that he met on at least two occasions in 1986 with Mr. Fontaine regarding this subject. One memo from the files is dated May 12, 1986, and is entitled "Subject: Hearst forest management agreement," and it states:

"On Saturday, May 10, 1986, p.m., I received a visit from René Fontaine who wanted to know what was going on. He seemed a bit discouraged and indicated that he was leaning towards the option of giving Levesque a separate area."

The memo then goes on in that vein. They obviously had an in-depth discussion about Hearst Forest Management and the granting of the forest management agreement.

There is another memo--it is undated, but from the sequence of letters before and after it, it appears to be either early May 1986 or late April 1986--in which Mr. Therriault again says to the file: "Received a visit from René Fontaine. He had communicated with United and Lecours Lumber." Those were his partners, if you recall, or his own company and his partner under the FMA. "René Viel from Lecours opposed to bringing Levesque in right now but would do so in two years." He then goes on to discuss the negotiations further.

10:40

There appear to be letters to and from Mr. Fontaine and other ministry staff--that is, the Ministry of Natural Resources, not his own ministry staff--with regard to the FMA and the timber cutting licences.

In view of that material, we would suggest that further witnesses, perhaps not the two we had scheduled but perhaps also including them, should be called, at least including Mr. Therriault, who seems to have been the person Mr. Fontaine met with and spoke to, and perhaps some of the other names that are contained in these letters, to whom he has written and from whom he has received correspondence.

I apologize for bringing this material to the committee at this late date, but as I indicated, we received it, I think, late last week. It is voluminous and it took time to cull through it to obtain these particular letters.

I have a package of information, which I am glad to provide to all members of the committee, of what we think are the relevant letters in this regard. Some members already have it. Our suggestion would be to read that material and decide who in that material should be heard, either this week or as soon as possible.

Mr. Sterling: There is a letter in this particular file dated September 24, 1985, in which Mr. Fontaine writes to Mr. Levesque. In the third paragraph of the letter it says:

"As you will be aware, a forest management agreement is being negotiated for the timber limit in question. A decision by NORTC"--which I believe deals



with the granting of money for access roads--"to financially assist with an access road must now be considered in view of the pending FMA. Once the FMA is signed, your application will be placed on the NORTC agenda for review."

That, to me, suggests there is a very serious involvement with Mr. Fontaine, on behalf of his company, in holding up another sawmill's application for a program until that other particular individual folded in terms of the negotiations dealing with the FMA.

I have very serious concerns over that particular paragraph and the involvement of Mr. Fontaine with the forest management agreement. I therefore suggest that we must also look at calling Mr. Levesque at this time.

Mr. Bossy: It is very difficult for us to hear four people at a time. If he is going through a document, we have only one copy.

Mr. Chairman: We are getting more copies made, and I think Terry has some more there that we will provide for you. They certainly appear to be documents that are excerpts from the files we received from the ministry offices.

Mr. Warner: I appreciate receiving this, and obviously we want to consider bringing further witnesses forward. Mr. O'Connor was kind enough to come and see me about this; so it is not a surprise. I in turn do not believe in surprises in these things, and I left with Mr. O'Connor and with the Liberal caucus copies of the motion I wish to place with the committee.

I am at the direction of the chair. What I would like to do is to formally table the motion with the chair, not have it voted on now, but ask the members to consider whether the motion I will place needs to be altered in any way in the light of the new information that has been brought forward. After you think about it, maybe the motion will be fine the way it is. On the other hand, if you still feel it is necessary to bring forward more witnesses--in other words, to accomplish more than the motion already says--that is fine; I am quite co-operative. At this moment, just from reading the material, I am not persuaded there is much more to be added to what we have already found, but I am open about it and I would like to hear a bit more discussion on the advantages of bringing forward a couple of more witnesses.

Mr. Chairman: I have a copy of the motion Mr. Warner wants to move and I will take him at his word and accept it as tabled for now. We will enter into discussion about it subsequently.

I remind you that as I read the documents, and I could be incorrect, they appear to have our file numbers on them and appear to be taken from documents that were tabled with the committee last week. They are not new documents. They were tabled before Tuesday of last week. They have been available to members of the committee for the better part of a week. Whether you chose to read them is another matter entirely, but I did inform you at Tuesday evening's hearing that the documents had been received, that they were being held in the clerk's office and that if you or any of your research staff wanted to go through the documentation, you were free to do so. You were notified that the documents had been received.

Mr. Newman: Why should we have to go to the clerk's office to get them?

Mr. Chairman: We have about 45 pounds of paper and the committee

agreed we would not duplicate it all and send it out; we would hold the material and make it available at the clerk's office.

Mr. Newman: You have convinced me.

Mr. Chairman: We have a motion that calls for two further witnesses. I sense some indication that you might want to hear from them. I would appreciate it if you will give me some direction on these two witnesses and then perhaps move subsequent motions if you want to call for other witnesses.

Mr. Sterling: On that point, I believe the reason we were going to have those witnesses was so we could discuss drawing up the report today. That was brought forward by Mr. Mancini, who is not with us today. He was anxious to be with us when that report was called. Because we are going to have additional witnesses--this evidence is so overwhelming, particularly with Mr. Therriault, as to conflict. It is so overwhelming that we are going to have to call him and we might as well call the other ones at the same time. I do not know whether we are going to get to writing this report today or this week.

Mr. Martel: I have scanned this stuff quickly. I think I said to the Premier (Mr. Peterson) on Tuesday evening the whole problem might be that we will have to call back Mr. Fontaine. As I read this material, unlike my friend, I am amazed that we had every indication from the Premier--and I am sure he was being totally honest with us when he said it--that cabinet did not discuss it. These statements in writing by Therriault and another memo that does not have a date indicate rather specifically that maybe Mr. Fontaine--I say "maybe" because I do not know; from the evidence, it appears that Mr. Fontaine was continuing his drive to get the forest management agreement approved. If it is factual that on May 12, 1986, he visited Therriault to find out where the FMA stood, it is obvious he was continuing his efforts to get the FMA approved.

It is the same with the file memo without a date on it. It indicates roughly the same sort of thing going on and so do some of the extracts of the letters that have been quoted. I am not sure the witnesses we had scheduled can shed more light, but certainly Therriault and Fontaine can shed more light on what transpired. I do not think we can write a report without first talking to Therriault and possibly without talking to Mr. Fontaine again to find out why it is--having been told almost a year previously that he was not, and with the Premier having tabled the stuff on the FMA and not dealing with it at that time because it was a contentious issue--to find months later the minister still trying, at least according to this material, to get the FMA moving.

10:50

That is quite devastating and I think we have to give the member the opportunity to explain the sequence of events and why he was continuing to pursue this when he should not have been. Like my friend, I do not care if they want to hear the witnesses they have scheduled this afternoon, but we have to have the witnesses whose signatures appear in some of these letters or memos before us to find out just what was going on.

Mr. Warner: Who do you want, Mr. Sterling?

Mr. Sterling: Before we call Mr. Fontaine, I think we should hear the other witnesses. I do not want Mr. Fontaine to come in here--there is such a gulf between his story and what we are getting now that I am getting very indignant with what he told us.



I want Mr. Therriault here because he appears to have talked to Mr. Fontaine on several occasions. I want Mr. Levesque here in view of the letter Mr. Fontaine wrote to him in September 1985. It seems to me that a squeeze play was in motion and that Mr. Fontaine was a key player in the whole factor. We need Therriault, Levesque and Cloutier.

Cloutier is the manager of the FMA and he wrote a letter on July 8, 1985, to the minister. You have that letter. Mr. Fontaine replied to him on September 4, 1985.

Mr. Warner: Not the other two people you mentioned last week?

Mr. Sterling: I would hold them in abeyance until we have had a chance to talk to the other individuals. I would still like to hear the Deputy Minister of Northern Development and Mines, in view of these documents and other revelations. I am not clear when the Deputy Minister of Northern Development and Mines knew about Mr. Fontaine's interest in Golden Tiger. Right now, after looking at these documents, I do not know what to believe.

Mr. Warner: I appreciate the point Mr. Sterling raises. We went over the whole business about the letter and the correspondence between Ms. Eberts and René, and then the statement he made here. When you go back over it, you realize there are certain discrepancies, and from the information you provided this morning there appear to be further discrepancies in his statement.

To be quite candid about it, after the Premier's visit last week I felt we had ample information. I went ahead and drafted a motion on that basis and I am quite prepared to wrap it up and finalize things. I certainly would be prepared to bring in Mr. Therriault, Mr. Levesque and Mr. Cloutier, but I am a little concerned about the timing. I understand we do not have permission to sit next week--

Mr. Chairman: Yes, we do, but we have a problem in that there are caucus meetings next week.

Mr. Warner: Do you have any practical suggestions?

Mr. Chairman: The Progressive Conservative caucus has sessions on the 8th, 9th and 10th and the Liberal caucus has sessions on the 10th and 11th. That leaves us only Friday when members can be present.

Let me assist you, if I can. First, I sense that members want some time to review this material. Second, I hear different sets of names of people you might like to have called as witnesses. Would it be advisable to adjourn for a while and let you consider those you would like to call and whether you would like to proceed?

I think we have here drafts of the informational side of it. As you requested earlier, we had staff draft summaries of statements and presentations that have been made, so we have a draft of that available. We can circulate that now if you want.

You have a copy of Mr. Warner's motion and you have copies of the material presented by Mr. O'Connor this morning. Do I sense that you would like to adjourn for a while, reconvene perhaps at one or two o'clock and entertain motions at that time?

Mr. Martel: Can we make it two o'clock? I have a meeting at 1:15 p.m. with the Ministry of Municipal Affairs that I scheduled a month ago.



Mr. Chairman: Is it agreed that we adjourn now and reconvene at two o'clock, at which time I would ask you to put motions?

Mr. O'Connor: I do not know that this is particularly cogent in the light of what we are going to discuss at two o'clock, but I cannot be here this afternoon. I am just not available. I was under the assumption we were going into the Clerk matter today after discussing the possibility of interviewing these two witnesses tomorrow night and the next night, which is the schedule I think I got in my office last week. If all we are going to discuss is what further witnesses we want, I think perhaps you can get by without me.

Mr. Chairman: You would want a substitute, I imagine.

Is it agreed to proceed that way? We will adjourn until two o'clock and at two o'clock I will ask you to put motions. Okay.

The committee recessed at 10:58 a.m.

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Lacking M 32 or 33 Sept. 1986  
(Not sure which no.)





STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

THURSDAY, SEPTEMBER 11, 1986

Morning Sitting

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Smith, D. W. (Lambton L) for Mr. Bossy

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witness:

From the Ministry of Natural Resources:

Therriault, W. H., Hearst District Manager

ERRATA

The number on the cover of the issue of the standing committee on the Legislative Assembly for Tuesday morning, September 2, should be M-32, and that of the issue of Tuesday afternoon should be M-33.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, September 11, 1986

The committee met at 10:24 a.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: My apologies for being late this morning.

Mr. Treleaven: Not accepted.

Mr. Chairman: Shut up. I must warn you I am particularly snarly this morning.

Mr. Treleaven: I am too. I have a bad cold.

Mr. Chairman: Before we begin this morning, there are a couple of matters for your consideration. They do not need to be dealt with right now, but I want to put you on notice.

We were informed by telephone yesterday afternoon that Paul Martin now wants to appear before the committee. Since the motion stands that he be invited as a witness, it would simply be a matter of scheduling. The earliest opportunity would be some time tomorrow. We will try to communicate with Mr. Martin, and if it is still the desire of the committee to hear this witness, he will make himself available tomorrow.

The second matter I would like you to consider is that I have a request here from Guy Pratte. It is a letter we will circulate to you this morning, but basically the intent of it is that Mr. Pratte wishes to appear in front of the committee. Essentially, he wants to appear on behalf of his client, Mr. Fontaine. This is a somewhat unusual request; so I am simply going to circulate the letter, and we will deal with the matter probably at the end of the day today.

Mr. Morin: Mr. Pratte is here this morning. I wonder whether it would be possible to ask him to appear before us and tell us the reasons he wants to appear before us.

Mr. Chairman: We will have an opportunity to do that at the end of today's proceedings. We have two witnesses scheduled for today.

Mr. Morin: Did you say "he" will have an opportunity to?

Mr. Chairman: We will have an opportunity.

Mr. Morin: In other words, you accept that he will come before the committee in order to tell us why.

Mr. Chairman: No. I accept that he has sent a letter to the committee asking for the opportunity to appear on behalf of his client. The committee will deal with the letter this afternoon. It will be your choice



whether or not you allow legal counsel to appear on behalf of a client, which is something, frankly, that we have not done previously. We have allowed clients to appear with their counsel present to advise them, but we have not entertained a lawyer appearing on behalf of a client. I will have this letter duplicated and sent around so that you personally can see his request, and then we will deal with the matter, probably at the end of today.

Ms. Hart: Can you at least tell us why he wants to appear?

Mr. Chairman: That is why I want to give you the letter.

Ms. Hart: The reason I ask you is that we have two witnesses here this morning, and it may well be that we want to hear what Mr. Pratte says before we hear the witnesses.

Mr. Chairman: To do what I did not want to do, to summarize what Mr. Pratte's request is, he wants to appear to provide on behalf of his client a kind of defence summary. You will get the letter and be able to see how he phrases that and you will be able to make up your own mind whether or not you want to provide that opportunity.

Ms. Hart: A defence to what?

Mr. Chairman: A defence to, I suppose, what this committee has been sitting on all summer, and that is allegations that there is a member who is in conflict with the guidelines of the cabinet and perhaps with the Legislative Assembly Act.

Mr. O'Connor: Is the proposal that he be a witness and be sworn in as such or that he make argument?

Mr. Morin: No. I am not asking for a witness. I am asking why he sent a letter and what was the content of his letter. I am very curious to know about it.

Mr. Chairman: That is why I am trying my best to give you the letter.

Mr. Morin: Let me finish. Why do you not accept that he come and explain his letter? What is wrong with that?

Mr. Chairman: Nothing, if the committee decides to do that. It will be the committee's decision whether it does or does not hear him and on what status and on what basis it hears him.

Mr. Martel: I wanted to raise a couple of questions the last time he was here and was told I could not do so.

Mr. Chairman: Did you all come down the parkway this morning with me?

Mr. Martel: That is right.

Mr. Chairman: The final piece of business is that the first witness this morning, Mr. Therriault, has given me a request to have with him, not to testify but simply for reference purposes, Don Stillar, the forest management supervisor for the Hearst district. We have on other occasions said to a witness that if there were someone else he wished to have as a resource person, it was acceptable to have him sit in.

The first witness this morning is Mr. Therriault, district manager for the Ministry of Natural Resources in Hearst.

Mr. Therriault sworn.

Mr. Chairman: Mr. Therriault, do you have any kind of a statement you want to make to the committee or will we just begin the questions?

Mr. Therriault: No, I do not.

Mr. Chairman: We can begin with questions. Mr. O'Connor.

Mr. O'Connor: Thank you, Mr. Therriault, for being here this morning and assisting us in our deliberations. May I have you confirm your position with the Ministry of Natural Resources and how long you have been in that position? As I understand it, you are the Hearst district manager. Is that correct?

Mr. Therriault: Yes.

Mr. O'Connor: How long have you been in Hearst?

Mr. Therriault: Two and half years, approximately.

Mr. O'Connor: I understand that you have some role in the negotiations between several companies and the government with respect to the development of a forest management agreement. Is that correct?

Mr. Therriault: That is correct. I was the chairman of the steering committee. As the district manager, I also had some role.

Mr. O'Connor: Can you outline for us what the role is and what your responsibilities are in that regard?

Mr. Therriault: In a nutshell, as the chairman of the steering committee, I chaired the group that determined what the conditions of the FMA would be. As the district manager, I am responsible directly or indirectly for most of the activities associated with an FMA within the Hearst district.

10:30

Mr. O'Connor: Specifically, the proposed FMA with Hearst Forest Management Inc. falls under your jurisdiction and your committee's responsibility?

Mr. Therriault: That is correct.

Mr. O'Connor: Would you have been the person who negotiated with the principals of Hearst Forest Management Inc. before last year's election and thereafter with regard to developing an FMA?

Mr. Therriault: As the chairman of the steering committee and the district manager, yes, I would have been one of the persons, but there were other people who also had involvement as part of the steering committee.

Mr. O'Connor: How many others and who would they be?



Mr. Therriault: For example, there would be Mr. Tworzyanski, who is on the steering committee; Don Stillar, my forest management supervisor; a unit forester by the name of Mike Clarkson; and representatives from the company, Hearst Forest Management Inc.

Mr. O'Connor: They would be on your committee?

Mr. Therriault: That is correct.

Mr. O'Connor: You will have to back up then. I do not understand. I understood you were a government committee that was negotiating with them for the development of an agreement. Is that correct or were there members of the companies on your committee as well?

Mr. Therriault: The process is to establish a steering committee to negotiate the terms and conditions of the forest management agreement, and the steering committee consists of members of the government as well as members of the body we are negotiating with. In this particular case, the members of the Hearst Forest Management Inc. group were George Blight, Laurent Lecours and Charles Lecours.

Mr. Treleaven: Excuse me, but I have a supplementary. This committee did the negotiations among among itself. It was not set up to be one side of a negotiation. Is that what you are saying?

Mr. Therriault: What happens is that the company has a position or a perception and it puts it on the table and we accept, reject or negotiate as a government body and as a group we finally come to a consensus.

Mr. Treleaven: When you say "we negotiate," that is this committee, the steering committee. Is that what you are saying?

Mr. Therriault: That is correct.

Mr. Treleaven: So you have a proposed agreement and on one side is the company and on the other side is the steering committee made up half of the company.

Mr. Therriault: I am sorry; I am not following you.

Mr. Martel: That is a little unusual.

Mr. Treleaven: I am confused about this steering committee and its purpose.

Mr. Therriault: The purpose is to arrive at the terms and conditions for the Hearst Forest Management co-operative agreement.

Mr. Treleaven: Okay.

Mr. Martel: But you do not take sides.

Mr. Treleaven: The committee is represented by government and also by the two or three companies involved.

Mr. Therriault: The two companies.

Mr. Treleaven: On the private side.



Mr. Therriault: Actually, we negotiated not with any companies but with Hearst Forest Management Inc.

Mr. O'Connor: Within Hearst Forest Management Inc., as we have heard, it is comprised of members of two companies. Is that right?

Mr. Therriault: That is correct.

Mr. O'Connor: United Sawmill and Lecours Lumber.

Mr. Therriault: Yes.

Mr. O'Connor: There was some discussion of a third company with a man named Levesque being involved. Is that correct?

Mr. Therriault: Yes.

Mr. O'Connor: He was not therefore represented on the steering committee.

Mr. Therriault: No.

Mr. O'Connor: How was the decision arrived at as to who would comprise the steering committee from the private sector?

Mr. Therriault: They nominate their own representatives.

Mr. O'Connor: Before setting up a steering committee, a decision has to be taken that you would deal with Hearst Forest Management Inc.

Mr. Therriault: Yes.

Mr. O'Connor: There had to be some negotiations, I presume, with them prior to setting up the steering committee? Is that correct?

Mr. Therriault: Yes.

Mr. O'Connor: Were you involved in those negotiations?

Mr. Therriault: Yes.

Mr. O'Connor: Did those negotiations, at any time prior to last year's election, include Mr. Fontaine?

Mr. Therriault: Prior to last year's election? Yes.

Mr. O'Connor: He was representing United Sawmill at that time.

Mr. Therriault: Yes.

Mr. O'Connor: Did he sit on the steering committee as his company's rep or as one of the reps from Hearst Forest Management.?

Mr. Therriault: No. The steering committee was not formed until after the election.

Mr. O'Connor: What form did the negotiations take prior to the election? How was that done?

Mr. Therriault: There was a series of meetings where the companies were represented. The government representatives explained the process we were going through and how an FMA would be formulated. We talked about the various problems associated with it and tried to determine whether an FMA was the way we wanted to go and the way the companies wanted to go. From there it was determined that, yes, this was the way to go. A corporation was then established by the two companies that were still interested and we set up a steering committee from there.

Mr. O'Connor: Did you or other persons representing the ministry take any position with regard to the inclusion or exclusion of the third company?

Mr. Therriault: The ministry position was that we wanted all the companies within the Hearst district to form part of the co-operative agreement.

Mr. O'Connor: You were encouraging Hearst Forest Management Inc. to settle things with Levesque to include him. Is that right?

Mr. Therriault: That is correct.

Mr. O'Connor: What was the attitude of the two already in? Were they co-operative with you in that regard?

Mr. Therriault: I have to back up to clarify what I think your question is. Initially, we wanted all three companies to be involved. The third company, Levesque Lumber, expressed an interest early in the negotiations and then decided it did not want to be part of the co-operative forest management agreement and would prefer an individual FMA; so we proceeded on the basis of the two companies. The approach the ministry would then take is that the third company would have an equal cut of the wood, etc., but would be licensed in a different manner, a third-party agreement.

On that basis, we negotiated with Hearst Forest Management Inc. until after the public open houses in December 1985. In January 1986, I believe the third company was still not interested in joining but shortly thereafter decided it would like to become a part of Hearst Forest Management Inc.

Mr. O'Connor: It still wishes to be a part of it. Is that correct?

Mr. Therriault: That is correct. That is my understanding.

Mr. O'Connor: Since January, when it changed its mind in that regard, what has been the position or attitude of the other two companies, United Sawmill and Lecours?

Mr. Therriault: Initially, they were reluctant to have the third party enter immediately. They were never reluctant to have him enter, but they did not feel it was appropriate for him to enter immediately because of the stage of the negotiations, etc. However, they changed their minds, and we agreed that the third company would be allowed to enter.

Mr. O'Connor: When did they change their minds?

Mr. Therriault: The final terms of an agreement were arrived at in May, wherein Hearst Forest Management Inc. went down in writing as saying they would allow the third party in within two years.

Mr. O'Connor: Is that acceptable to the ministry?

Mr. Therriault: Yes, it is.

Mr. O'Connor: Do you know why they--

Mr. Therriault: Excuse me. It is also acceptable to the third party.

Mr. O'Connor: To the third party.

Mr. Therriault: Yes.

Mr. O'Connor: Do you know why they changed their minds, that is, the two partners in Hearst?

Mr. Therriault: Yes. They changed their minds because the FMA was not being signed and they felt it was necessary to speed up the process.

Mr. O'Connor: Has it?

Mr. Therriault: No.

Mr. O'Connor: Have you met with or spoken to Mr. Fontaine in regard to the Hearst FMA since the election?

Mr. Therriault: Yes.

Mr. O'Connor: On how many occasions have you met with him?

Mr. Therriault: Three or four. I am not sure how many times offhand.

Mr. O'Connor: In your files, there are memoranda with respect to two of those meetings. You may be aware of that from these reports and so forth.

Mr. Therriault: Yes. In my files, there are actually memoranda with respect to three of those meetings.

Mr. O'Connor: Were there? Could you, offhand, recall the dates of the three meetings?

Mr. Therriault: January 21, April 27 and May 10.

Mr. Morin: 1986?

Mr. Therriault: Yes.

Mr. O'Connor: All 1986.

Mr. Therriault: Right.

Mr. O'Connor: You referred to a fourth meeting. When would that have been?

Mr. Therriault: One moment. These meetings were not all specific to the Hearst FMA, but there was another meeting on March 25.

Mr. O'Connor: Was there a memo to file in regard to that? .



10:40

Mr. Therriault: Yes; March 25, 1986.

Mr. O'Connor: So we have January 21, 1986; March 25, 1986; April 27, 1986; and May 10, 1986. Is that correct?

Mr. Therriault: Yes.

Mr. O'Connor: I have memos to file with regard to the last two only. Would you have handy the other memos that you could provide to the committee?

Mr. Therriault: Yes.

Mr. O'Connor: Perhaps you could undertake to do that for us, if you would.

First, were there other communications with Mr. Fontaine since the election--by telephone, for instance?

Mr. Therriault: I do not believe so. I talked to Mr. Fontaine on different occasions on the street or at times of that nature, but I do not believe we talked by telephone. I would not swear to it, but that is my perception.

Mr. O'Connor: How about in connection with arranging these meetings? Would he not have called you in advance to meet with you?

Mr. Therriault: Yes, that is correct.

Mr. O'Connor: So there may have been four telephone calls in connection with the meetings?

Mr. Therriault: There was no telephone call with respect to the January meeting. There was a telephone call relative to the March meeting, and there was a very quick telephone call relative to one of the other two meetings; I believe the April meeting.

Mr. O'Connor: In each case, was it Mr. Fontaine himself who was calling?

Mr. Therriault: Yes.

Mr. O'Connor: I take it that all he did in those calls was to set up meetings.

Mr. Therriault: That is correct.

Mr. O'Connor: You cannot recall any other telephone calls discussing the forest management agreement?

Mr. Therriault: No.

Mr. O'Connor: In the casual meetings you described, do you recall getting into a discussion with regard to the FMAs?

Mr. Therriault: Not in any depth, no.

Mr. O'Connor: But you may have discussed it not in depth, in other words.

Mr. Therriault: If we did, it was a very superficial discussion, and it was not something I took mental note of.

Mr. O'Connor: May we deal with the two meetings we have before us by way of memo? Do you happen to have the memos for January 21 and March 25 available?

Mr. Therriault: Yes.

Mr. O'Connor: Perhaps the clerk could copy those for us.

I am referring you to the file memo in regard to the April 27 meeting.

Mr. Therriault: Yes.

Mr. O'Connor: You indicate you received a visit from René Fontaine. Where was that visit?

Mr. Therriault: In my home.

Mr. O'Connor: In Hearst?

Mr. Therriault: Yes.

Mr. O'Connor: That was what day of the week? Do you recall?

Mr. Therriault: Sunday afternoon.

Mr. O'Connor: Did you consider it unusual that the minister would arrive at your door on a Sunday afternoon and then a week or so later, on a Saturday morning? Are you a personal friend of his? Is that the reason for the home visit?

Mr. Therriault: No, I am not a personal friend of his. I know him, as does everybody else in Hearst. He has a very casual style, and it does not strike me as terribly unusual, knowing René's style.

Mr. O'Connor: You indicate he had communicated with United Sawmill and Lecours. Can you tell us the discussion that took place, how he indicated that and some of the background of your making these notes to yourself?

Mr. Therriault: I think I have to back up a little bit and explain what happened earlier that week to put it into a bit of context.

Mr. O'Connor: Please do.

Mr. Therriault: In mid-March, Mr. Levesque of Levesque Lumber decided he would like to enter the Hearst co-operative forest management agreement and asked that the ministry set up a meeting with Levesque Lumber and its lawyer and Hearst Forest Management Inc. to try to feel the water and determine what conditions they could enter under.

That meeting was arranged for April 22, and at that meeting Hearst

Forest Management Inc. determined that it did not feel it was appropriate for Levesque Lumber to enter into the co-operative agreement at that time. Subsequent to that, Mr. Levesque of Levesque Lumber sent a letter to the Honourable Vincent Kerrio, with a carbon copy to Mr. Fontaine, expressing his concerns.

I suppose that as a result of that meeting, Mr. Fontaine came to see me, wondering what was going on. It seemed like a reasonable thing to do, in my perception, for him as the MPP to ask, "What is going on?" relative to the biggest thing that is happening in the Hearst woods industry.

My reason for writing the file memos is that I keep a chronological record of events relative to this type of thing. It clarifies the record, and I felt it was appropriate.

Mr. Treleaven: You say it is the biggest thing that had happened and that, as MPP, it was appropriate for him to get involved.

Mr. Therriault: I did not say it was appropriate. I said it was my perception that it was appropriate for him to ask the question.

Mr. Treleaven: Was it also your perception that he get involved as MPP when he had a personal interest in that corporation obtaining the forest management agreement?

Mr. Therriault: I have no perception on that.

Mr. Morin: Would you say at that time Mr. Fontaine was lobbying, or was he inquiring?

Mr. Therriault: My perception was that he was inquiring.

Mr. O'Connor: Bringing us to the memo itself, you are indicating he had communicated with United Sawmill and with Lecours Lumber, "he" meaning René Fontaine.

Mr. Therriault: Yes.

Mr. O'Connor: Did he discuss what he had communicated with them, what he had discussed with them?

Mr. Morin: Another supplementary to the question: Do you think Mr. Fontaine's inquiry was in line with the FMA process that was initiated by Mr. Pope and Mr. Harris?

Mr. Chairman: I do not want to cut off a question here, but both Mr. Treleaven and Mr. Morin have asked the witness for an opinion on the appropriateness of all that. I am a little uncomfortable that the witness is not an expert in that field; that is not his business. I do not want to prevent you from asking questions, but I caution you not to ask unfair questions of the witness.

Mr. Treleaven: I followed up the witness himself. He opened it up by giving an opinion that it was his perception of what was appropriate for an MPP.

Mr. Chairman: I am simply asking you to try to phrase your questions carefully to be fair to the witness. I do not want to start ruling questions



out of order. The better way to proceed is simply to ask you to rethink them before you put questions to this witness about whether the minister's actions were appropriate. I do not want to rule questions out of order; we have not done that all along here. However, the witness is not an expert in whether a cabinet minister's behaviour is appropriate; so just phrase them a little more carefully.

Ms. Hart: Not on the question of whether the appropriateness should be answered, but surely this witness is an expert in the process. I thought that was what Mr. Morin's question was directed to: the process of the FMA negotiation.

Mr. Chairman: I did not.

Mr. O'Connor: Again, just to take it up, Mr. Fontaine indicated that he had been in touch with the partners in Hearst Forest Management Inc. and advised you that René Viel from Lecours was opposed to bringing in Levesque right now. Is that correct?

Mr. Therriault: Yes, it is.

Mr. O'Connor: What was his attitude towards Levesque?

Mr. Therriault: Mr. Fontaine's attitude?

Mr. O'Connor: Yes. Was he supporting the notion that he should not be brought in now, was he opposing it, or was he noncommittal?

Mr. Therriault: He was pretty noncommittal. My perception was that he was quite concerned that the FMA was not happening. I cannot remember the exact context of the conversation, but the general direction was that the other two parties were not prepared to let the third party in at this time.

10:50

Mr. O'Connor: Of course, René Fontaine is one of the other two parties in his personal capacity, is he not? I need not ask you that; that is a fact. He is the chief shareholder of United. You are saying the two of them, and the memo says the two of them, do not want Levesque in for the time being for four or five reasons that are enumerated in the memo.

Mr. Therriault: The two of them had made that very clear at the meeting of the 22nd.

Mr. O'Connor: The question in my mind--and I do not know whether you can answer this--is how Mr. Fontaine separates, at this point in your house, his personal interest wherein he says, "We do not want Levesque in," and his MPP and ministerial interest, which is the best interests of the Hearst area. You are saying--

Mr. Chairman: I do not rule that question out of order, but I want to point out to the witness that I think this is what you call in the trade a rhetorical question.

Mr. O'Connor: In your mind, did he separate those two?

Mr. Therriault: I do not know.

Mr. O'Connor: All right. I might want to come back to that one in dealing with the question of his position on the Indians in the area, but I will move on to the memo of May 12, which indicated he visited you on May 10. You indicated that was a Saturday morning. Is that correct? I am sorry, p.m.

Mr. Therriault: Yes, p.m.

Mr. O'Connor: That was at your house again?

Mr. Therriault: Yes.

Mr. O'Connor: Had he prearranged that meeting with a telephone call?

Mr. Therriault: No. I believe he just knocked on the door.

Mr. O'Connor: As I understand it, on each of the four occasions he was alone. Is that correct?

Mr. Therriault: The January meeting was set up by my regional director in the Ministry of Northern Development and Mines offices, and at that meeting were my supervisor and several other district managers. At the second meeting, about which I just gave you a memo, he was alone, but it was in the Ministry of Northern Development and Mines offices again. At the third one, he was not alone; he had a fellow with him by the name of Michel Duval.

Mr. O'Connor: Was that on April 27?

Mr. Therriault: Yes.

Mr. O'Connor: The one we just discussed. Who is Duval?

Mr. Therriault: He works for United Sawmill.

Mr. O'Connor: Do you know in what capacity?

Mr. Therriault: He is the manager of United.

Mr. O'Connor: What part did he take in the conversation?

Mr. Therriault: None whatsoever. He sat there very quietly.

Mr. O'Connor: On to May 12. I take it that at the May 12 meeting his attitude towards the inclusion of Levesque had changed quite dramatically from that of several weeks before. As you have indicated, he was taking a noncommittal or neutral position before but now, as the memo indicates, you say, "He seemed a bit discouraged and indicated that he was leaning towards the option of giving Levesque a separate area." What he is leaning towards is keeping Levesque out of the deal. Is that correct?

Mr. Therriault: Yes and no. Not really. What happened was that the principals of the two companies decided they did not want Levesque in early in the game because they had come too far in the negotiations. That position did not change.

There was a letter from the Hearst Forest Management Inc. general manager, Roly Cloutier, immediately after April 29, wherein he said they were willing to start negotiations in two years; in other words, Levesque would be allowed in down the road. That was not determined by the ministry to be



adequate. We wanted to get Levesque in as soon as was reasonable. The two principal companies--the Hearst Forest Management Inc. people, in other words--were saying, "No, that is our position at this point." The negotiations were more or less at a stalemate.

Mr. Fontaine came to see me, asked a few questions about where things were, seemed to be discouraged and was saying in effect, "Because Hearst Forest Management Inc. does not want to let Levesque in early and because I know Levesque wants an individual forest management agreement of his own, why the heck is the ministry pushing that he be part of a co-operative?" He asked the question. I am paraphrasing. My response was to re-explain to him why the ministry wanted the co-operative forest management agreement.

Mr. O'Connor: He was making his position known to you, as one of the principals of Hearst Forest Management, that he did not want Levesque in at the present time.

Mr. Therriault: It would be unfair to say he was making his position known. He was asking, to use your earlier phrase, a rhetorical question: "Tell me again why the ministry's position is that"--

Mr. O'Connor: As you have indicated, he was leaning towards the option of giving Levesque a separate area; in other words, cutting him out.

Mr. Therriault: That is correct, yes.

Ms. Hart: I have a supplementary on that. Did you feel in your mind that Mr. Fontaine was influencing you in any way to exclude Mr. Levesque?

Mr. Therriault: I have never felt pressured by Mr. Fontaine in terms of these negotiations at all.

Mr. O'Connor: You are an amazing man then, if I may say so. Your description is that you have had four individual meetings with Mr. Fontaine. He is there, and you went so far in your last memo as to make a subjective analysis of his emotional state that day. You indicated that he was discouraged--discouraged, I take it, at the course of the negotiations--

Mr. Therriault: Yes.

Mr. O'Connor: --and that his preference was that he did not want Levesque in. Yet you are telling us, as a civil servant speaking to a minister of the crown, that you were not feeling any pressure in that regard. That is your position, I take it. Is that correct?

Mr. Therriault: I believe my memo says in part, a little farther down--I explained some of the concerns relative to this action and indicated that my recommendation would be to have an FMA signed now, with the understanding appended to it wherein Levesque would be let in some time soon in some fair and equitable manner.

Mr. Martel: May I have a supplementary? At this stage of the game you have a cabinet minister before you on a forest management agreement that is excluding a company from becoming part of that forest management agreement. The minister should not have been involved. What was your honest reaction to someone who should not be involved coming there? You say there was no pressure being exerted. What the hell is he doing going to you and talking about this anyway, saying, "Exclude this," if he is not supposed to be involved in those



sorts of discussions? What position does that put you in?

Mr. Therriault: I felt that as a cabinet minister--or as an MPP, for that matter--the meetings were important enough that they should be on the record, and so they were. Beyond that, I was cautious in my responses and did not say anything I was not comfortable with. I guess "cautious" is the word I would use.

Mr. Martel: The whole thing is bizarre, quite frankly.

Ms. Hart: I have one more supplementary arising from your answers. You talked previously about Mr. Fontaine's style. Did that come into your assessment of what was going on in those meetings? Is that why you tell us you were cautious, but you did not feel pressured?

Mr. Therriault: That is probably a fair statement.

Mr. O'Connor: Perhaps we can go back to the memo of January 21. As the agenda for that meeting indicates, you discussed a whole range of matters, regional issues and so forth, including the Hearst Forest Management Inc. FMA. There is a reference to contacting Levesque regarding his overdue dues, the need to set out a schedule and his input into the FMA. Can you bring us up to date on that? What dues would he owe and to whom?

Mr. Therriault: The dues were owed to the crown.

Mr. O'Connor: For what?

Mr. Therriault: For wood that had been cut by Levesque Lumber.

Mr. O'Connor: They were not dues paid in connection with the FMA then of any nature?

Mr. Therriault: No. There was nothing whatsoever paid in connection with the FMA.

Mr. O'Connor: On his input into the FMA, Levesque at this point in January is not included in the FMA. He wants to get in, but everybody is rejecting him. What does that mean? Why would he have input in January if he was not a member?

Mr. Therriault: Are you looking at my file memo?

Mr. O'Connor: Yes, I am. The third paragraph, second-last line.

Mr. Therriault: This was my conversation with the deputy minister.

Mr. O'Connor: Ms. Mogford?

Mr. Therriault: Yes.

Mr. O'Connor: I misinterpreted it. It says, "I will be writing a letter and contacting Levesque regarding his overdue dues and the need to set out a schedule and his input into the FMA," not meaning her input but meaning Levesque's input. Am I misinterpreting that?

Mr. Therriault: No, but I will have to think for a moment. I believe that was the letter I wrote to Levesque Lumber, and I may have a copy here, wherein I responded to their position regarding the FMA. Also in the same letter, I responded to their concerns relative to their crown dues. Do you want me to look for the letter?

Mr. O'Connor: Yes. If it is available, perhaps we could have it.

Would that have been part of the package that was sent from your office a couple of days ago?

Mr. Therriault: Yes, I believe it was.

The letter I must have been referring to there is dated January 23 and it is to Levesque Lumber. It was in the files you received.

Mr. O'Connor: Thank you.

Ms. Hart: Mr. Chairman, may I have a clarification? My colleague indicated in his last question that Mr. Levesque wants in, but "everybody is rejecting him." I think that was the quote. Is that fair? Was everybody rejecting him or was it just that at that time they did not want him in? I am not quite sure.

Mr. O'Connor: That is what I said. In January the other two companies did not want him in. It was not until May you indicated they had changed their minds.

Ms. Hart: No. I have not put my question clearly. Were the other two companies rejecting him out of hand, or did they just not want him in the forest management agreement? In January they wanted him in at some future time. It was not that they were rejecting him altogether. I do not understand what you said about that.

Mr. Therriault: In the meeting on April 22, the companies in general were not comfortable that Levesque was wanting in at this late stage in the game, but conceded they were ready to let him in down the road, at a time that would be later than the ministry's optimum time would be.

Ms. Hart: My colleague also said Mr. Fontaine was the major shareholder in United Sawmill. Now maybe I am wrong, but I thought he was a one-third shareholder. Is that correct? I do not want to mislead the witness.

Mr. O'Connor: No. United Sawmill is a one-third shareholder of Hearst Forest Management Inc., but René Fontaine is the major shareholder of United Sawmill.

Ms. Hart: Thank you.

Mr. O'Connor: The "his" you are referring to in "his input into the FMA" we have established is Levesque.

Mr. Therriault: I believe so.

Mr. O'Connor: That is confirmed by your letter, you are indicating.

Mr. Therriault: I believe so.

Mr. O'Connor: Can we go on to the file memo of March 25, 1986. Again you indicate that at his request, meaning at Mr. Fontaine's request, you met with him in his office. Would that be his constituency office up north?

Mr. Therriault: No, that was the Ministry of Northern Development and Mines office down here. I was down here anyway. He phoned me on, I believe it was, a Sunday afternoon. I said: "I am going to be in Toronto. I can meet with you then." There were a number of matters he wanted to discuss.

Mr. O'Connor: You discussed the Levesque situation?

Mr. Therriault: Yes.

Mr. O'Connor: The memo indicates only that you discussed it. What was the discussion?

Mr. Therriault: I am digging back a long way, but at that time the crown dues were a very significant issue, and I am sure we discussed those. We must have discussed the FMA in a context similar to what was going on at that time.

Mr. O'Connor: Can you recall Mr. Fontaine's attitude at that time towards Levesque's inclusion? Was he taking the position that somewhere down the road, some distant time down the road, he might be included, or was he urging the position on you?

Mr. Therriault: At that time he was not nearly as interested in the negotiations as he was in the later file memos. He had had literally very little interest then relative to later on in those other two memos. It seems to me we talked about the fact--and I am really searching here--that Levesque was not in and was opposed to the concept of a co-operative forest management agreement. I vaguely remember his words to me were something to the effect that--how did that go?--"I guess you will have to work on it" or something to that nature, meaning that the negotiations would have to continue, and there really was not very much said at that time about it.

Mr. O'Connor: And the balance, as you have indicated in the memo, of what you discussed was not related to the FMA. Is that correct?

Mr. Therriault: Yes. The only thing that had any peripheral relationship to the FMA would be point three.

Mr. O'Connor: Yes. I want to deal with that separately, and I will, if I may. Did that whole situation appear odd to you, that a minister of the crown--not your minister--would call to seek a meeting with you in his office to discuss--

11:10

Mr. Morin: Mr. Chairman, that is the same question I asked, and I was ruled out.

Mr. O'Connor: I think we can ask this witness his impression as to--

Mr. Morin: That is what I asked.



Mr. Chairman: Let me put it this way. It is the committee's job to judge whether the minister's actions were appropriate or not. It is not this witness's job to do that. I do not want to rule your questions out of order, but I would like a little bit of fairness here. Do not ask a civil servant whether the minister did the right thing.

Mr. O'Connor: I agree that is unfair to him. That is up to us, and I will not pursue that.

Mr. Sterling: May I ask a question just to clarify something?

That meeting was at his request, I believe?

Mr. Therriault: Yes.

Mr. Sterling: Mr. Fontaine phoned you and set up that meeting. Did he set out the agenda that you were discussing, or was that--

Mr. Therriault: I am quite certain there was no formal agenda. When he phoned me, he must have mentioned a number of concerns. That is why he phoned me, I am sure, but I do not remember.

Mr. Sterling: You do not remember what he talked about on the phone either in terms of what he would like to discuss?

Mr. Therriault: No, but I am assuming it must have been some of these things because I would have gone prepared to discuss those issues.

Mr. Sterling: Were this particular file memo and the one in January included in the material you gave to the committee?

Mr. Therriault: Yes, it was.

Mr. Sterling: We must have missed it then.

Where was the January 21 meeting you had with Mr. Fontaine?

Mr. Therriault: At the Ministry of Northern Development and Mines office.

Mr. Sterling: It was in Toronto?

Mr. Therriault: Yes.

Mr. Sterling: Did Mr. Fontaine have anybody with him when he met with you at that time?

Mr. Therriault: I believe he did. Yes, one of his assistants.

Mr. Sterling: Which assistant was that? Do you recall?

Mr. Therriault: I do not. I am sure my supervisor could remember, but I cannot remember offhand.

Mr. Sterling: You then walked over, I presume, to the Deputy Minister of Natural Resources after that meeting. Would that be correct?

Mr. Therriault: Later in the afternoon, yes.

Mr. Sterling: You discussed with the deputy minister what Mr. Fontaine had talked about in the meeting?

Mr. Therriault: Yes. My discussions were relative to the overdue crown dues and peripherally about the FMA, yes.

Mr. Sterling: So you did talk about the Hearst FMA?

Mr. Therriault: I believe so.

Mr. Sterling: With regard to the words you used in the first sentence that Mr. O'Connor referred to, when you say "his input into the FMA," who does the pronoun "his" represent? It is Levesque, is it?

Mr. Therriault: I believe so.

Mr. Sterling: It is not Mr. Fontaine?

Mr. Therriault: No. I am sure it was not meant to be him.

Mr. Sterling: Did Ms. Mogford indicate to you at that time whether she had any direct contact with Mr. Fontaine about the FMA?

Mr. Therriault: No. In fact, the issue at that time, the most important reason for my having gone back to her, was largely to do with the crown dues.

Mr. Sterling: Who raised the matter with regard to the FMA?

Mr. Therriault: Are you referring to the meeting with myself and the deputy?

Mr. Sterling: Yes.

Mr. Therriault: Probably myself, but I am not certain.

Mr. Sterling: Can I expand that just one more--

Mr. Chairman: I have a list here. Mr. Warner, you had a question.

Mr. Sterling: I will come back then.

Mr. Warner: I have several questions. Mr. Therriault, I want to back up a little bit and start with some background. How long have you been the district manager in the Hearst area?

Mr. Therriault: Since March, 1984.

Mr. Warner: Prior to that, were you with the ministry?

Mr. Therriault: Yes. I was the outdoor recreation supervisor in the Cochrane district.

Mr. Warner: In terms of the reporting responsibility, to whom do you report directly under normal circumstances?

Mr. Therriault: Ray Riley, the regional director out of Cochrane.

Mr. Warner: From the time you started in 1984, was it normal for you to report or to be asked to report directly to the Minister of Natural Resources?

Mr. Therriault: Definitely not.

Mr. Warner: I am unfamiliar with the relationship between the Ministry of Natural Resources and the Ministry of Northern Development and Mines in the practical, working sense in the north. I apologize for that. I guess it is a failing of a lot of southerners not to understand that.

Mr. Martel: A lot of northerners too.

Mr. Warner: What is the normal working relationship as it exists between those two ministries in the north? Is there regular contact between the two ministries?

Mr. Therriault: No, not really. In practical terms it is extremely limited.

Interjection.

Mr. Warner: That is a political judgement. Do not harass the members, let alone anybody else.

The responsibility for the FMA lies with the Ministry of Natural Resources. Is that correct?

Mr. Therriault: Yes.

Mr. Warner: As you develop FMAs in parts of the north, your normal course is to make contacts through the deputy minister or whomever else you are to report to, in developing those FMAs within the Ministry of Natural Resources--I am sorry; let me try again.

In developing FMAs, your normal course of action would be to develop them through the Ministry of Natural Resources and not through the Ministry of Northern Development and Mines. Is that correct?

Mr. Therriault: Yes, that is correct.

Mr. Warner: In the March 25 memo it says, "Briefing, R. Fontaine, Ministry of Northern Development and Mines." Is this what we would term a briefing session that occurs here between the minister and deputies? Is that the level you were referring to?

Mr. Therriault: No. Perhaps the word "briefing" is misleading. Had I known the memo was going to end up here, I might have phrased it differently in terms of that word.

Mr. O'Connor: You might not have written it at all.

Mr. Martel: The Nixon tapes.

Mr. Therriault: The context in which I was approaching this was that I had been asked to meet with the minister, who was also the MPP.

Mr. Warner: Oh, I see.



Mr. Therriault: That is the way I approached it. These issues reflect that, I believe.

Mr. Warner: Approximately how many other forest management agreements have you been involved with in your capacity as district manager?

Mr. Therriault: This is the first one I have negotiated.

Mr. Warner: Did you think it would be a normal course of events to involve the Ministry of Northern Development and Mines in what basically is a matter for the Ministry of Natural Resources?

Mr. Therriault: No.

Mr. Warner: You were aware, of course, that Mr. Fontaine was the local MPP and that he was the Minister of Northern Development and Mines. Were you also aware that he had a financial interest in United Sawmill?

Mr. Therriault: Yes, I probably was. Oh, yes, I was.

Mr. Warner: Prior to your first meeting in January?

Mr. Therriault: I am sure I was.

Mr. Warner: In the memo of May 12, you mentioned that Mr. Fontaine was "a bit discouraged." Did you write that down as an impression, based on what he said, or was it an emotional presentation? Why did you write down that he seemed a bit discouraged?

11:20

Mr. Therriault: As I remember it, he just seemed down, discouraged by the fact that the FMA was not moving. His general demeanour was: "What is going on? Why are not things moving? Is this thing ever going to get off the ground?" It was that sort of feeling, I suppose--just an impression he left me with, I would have to say.

Mr. Warner: Then he indicates that he--"he" meaning Mr. Fontaine--was leaning towards the option of giving Levesque a separate area. What I am not clear about is, in what capacity was he making that decision?

Mr. Therriault: Initially, he was almost fervent in the early FMA negotiations that a co-operative was the best thing for the town of Hearst, and it was really good stuff; everybody should get together, and all the companies should pull this co-operative off. By this time he was saying in effect, "If the negotiations with Levesque are going to create all this problem and if he wants an individual FMA, why are you not giving it to him?"

Mr. Warner: I understand that. I appreciate that. What I am unclear about is whether, when he makes that kind of decision in his own mind, he is making it as a business decision, i.e., as an involved person in United Sawmill, or as an economic decision for the region with respect to his being the local MPP, or as a minister of the crown, who naturally has an interest in all of northern Ontario.

I am really puzzled by the memo as to in what capacity he is rendering this decision. At the time of the conversation, which led you to make this little note, in what capacity did you think he was making this decision?

Mr. Therriault: I do not know.

Mr. Warner: That is one of the things we do not know either, unfortunately.

I want to kind of tidy things up. There were four meetings which occurred over a bit more than four months, and in each case at least one of the topics was the FMA.

Interruption.

Mr. Warner: Is my time up?

Mr. Chairman: Very close.

Mr. Warner: I kind of expect that from the chairman.

In each instance the FMA was discussed in some context. What do you think overall, when you look at the four meetings, was the purpose of Mr. Fontaine coming to see you?

Mr. Therriault: Coming to see me on the last two?

Mr. Warner: What was his purpose in coming to see you four times over four months, in each case discussing the FMA with you?

Mr. Therriault: The January meeting was arranged by the regional director; that was an information session in which other district managers as well as myself participated.

In the context of the other three, in at least one of them, the March 25 meeting, I believe the FMA was a bit of an issue at that time but seemed to be going ahead for April 1; so there was no great frustration on his part, I am sure. And there were other items we discussed at that time.

At the other two, I am quite sure, there was a feeling that the FMA should move along. That was the context he would have come to see me on: "What is going on? What is happening?"

Mr. Warner: At any one of these meetings, did Mr. Fontaine mention that he had an economic interest in the agreement?

Mr. Therriault: No.

Mr. Warner: Did he ever mention, "Remember, one of these companies is mine"?

Mr. Therriault: No. It would be understood that he had been a part owner. No, it was never brought up.

Mr. Warner: You met with the Deputy Minister of Natural Resources. Was she aware that Mr. Fontaine had been to see you regarding the forest management agreement?

Mr. Therriault: I met with the deputy after the January meeting. That was after the meeting which my supervisor had arranged in Mr. Fontaine's office. The principal reason I went back to talk to the deputy at my supervisor's request was the crown dues issue. We did talk about the FMA at the same time, I believe.

Mr. Warner: Did she express any concern about Mr. Fontaine intruding himself into the discussions?

Mr. Therriault: I do not believe so. At that time, the meeting was an information session, and I do not recollect anything like that.

Mr. Warner: Did she mention any concern about the propriety of Mr. Fontaine being involved in discussions of that nature?

Mr. Therriault: No. It was an information session to Mr. Fontaine. There were no discussions, so to speak.

Mr. Warner: The last question I have is, from the beginning of the process, as you had discussions around the development of an FMA right through until the conclusion, did you have meetings or discussions with any officials of the Ministry of Northern Development and Mines other than Mr. Fontaine?

Mr. Therriault: No.

Mr. Warner: Were any other officials involved?

Mr. Therriault: Relative to the formation of the FMA?

Mr. Warner: Yes.

Mr. Therriault: No, not that I can recollect.

Mr. Warner: Mr. Fontaine was the only person related to the Ministry of Northern Development and Mines who had a discussion with you with respect to the FMA?

Mr. Therriault: Yes.

Mr. Morin: A supplementary question: Did I hear you say that the meeting of January 21 was held at your request?

Mr. Therriault: At the request of my supervisor, yes.

Mr. Morin: Who was your supervisor?

Mr. Therriault: Ray Riley, the regional director.

Mr. Morin: He is the one who asked you to have a meeting on January 21?

Mr. Therriault: Yes. He arranged the meeting with Mr. Fontaine to brief him on a number of issues. I believe you have the agenda here this morning.

Mr. Chairman: Just to clarify for my mind, you said earlier that you had been given some direction by someone within your own ministry to brief the local member, Mr. Fontaine, on this. Could you clarify that for me? Is that what you meant when Mr. Riley said, "Go and have a meeting with him and fill him in on the background"?

Mr. Therriault: Mr. Riley was there at this meeting along with the district managers from Kapuskasing, Moosonee and Cochrane.



Mr. Morin: If I understand you correctly, it was not Mr. Fontaine who asked to arrange that meeting; it was Mr. Riley who said, "Let us organize a meeting and inform Mr. Fontaine about what is going on."

Mr. Therriault: I believe that was the--

Mr. Morin: It was not Mr. Fontaine who came on his own and asked for a meeting? He was told, "There would be a meeting on January 21; we would like you to be there"?

Mr. Therriault: I do not know. He certainly did not ask me.

Mr. O'Connor: In the material presented to us by your office and one other up north, we have found a handwritten memo dated February 3, 1986. I wonder whether you have a copy of that and whether you have seen it. If not, maybe I can give you a copy. As you can see, that memo is very rough and it is unsigned. Is that your writing?

Mr. Therriault: No.

11:30

Mr. O'Connor: Do you have any idea who did that?

Mr. Therriault: Did this come out of the district file or the regional file?

Mr. O'Connor: I am sorry; I do not know.

Mr. Therriault: I do not know.

Mr. O'Connor: You will notice in the first line there is this reference: "Check with Therriault for any written (or other) communication between Fontaine and district or"--something--"and district." I cannot read that word.

Mr. Therriault: It looks like "Pope."

Mr. O'Connor: Pope?

Mr. Therriault: I am guessing.

Mr. O'Connor: Did anyone check with you with regard to the point that is mentioned there? Somebody seems to be making a memo to himself to do that.

Mr. Therriault: It does not ring any bells.

Mr. O'Connor: It then goes on to say, "Briefing note summary for Premier's office only." Were you communicated with or contacted by anybody asking you for information on the development of the forest management agreement for use only in the Premier's office shortly after February 3?

Mr. Therriault: I cannot remember. I would have to check the files. It appears from this they were--it sounds like something--

Mr. Chairman: Before we go much further with this, I have reminded you previously, and I will do it again, that it would be very helpful if the rest of us could see the same piece of paper you are quoting from. If you want to make specific reference to something you quote from those files, if you would simply give it to the clerk, the clerk will make copies and all members of the committee can follow your line of questioning.

Mr. O'Connor: I am sorry. The documentation was provided by the ministry; so it is available to everybody.

Mr. Chairman: It is available to everybody, but I am saying that as we try to follow your line of questioning, it would assist the rest of us if we could identify and have copies of the piece of paper you pulled from the files. For this one, we will send the clerk out to make copies. If there are other specific documents you pulled from the files and you want to use, if you will give them to the clerk, we will make copies so that everybody can follow your questions.

Mr. O'Connor: There are. Perhaps when he comes back, we can do that. Do you wish me to await his return before we go on with this?

Mr. Chairman: It is up to the rest of the committee. I have great difficulty following a document that you have not identified and cannot read, and no one else knows what it is. Pardon me, but I have a little trouble following that.

Mr. Treleaven: You have not been looking through the box of briefing notes well enough.

Mr. Chairman: Neither have you. Your staff should come up and hand it to you.

Mr. O'Connor: Does everyone have before them the letter of November 5 from Mr. Therriault to Constance Lake Reserve, general delivery, Calstock, Ontario? I can ask some questions on that letter if we all have it. No?

Mr. Chairman: I do not believe we do.

Mr. Sterling: That was in the package that was put forward last week that we drew out of the general file.

Mr. O'Connor: If I may, I will come back to the handwritten memo when copies have been provided to everyone. If everyone has the November 5 letter dealing with the Indian band at Constance Lake, I can ask some questions on it. Do you have that before you, sir?

Mr. Therriault: Excuse me; what date?

Mr. O'Connor: November 5, 1985. You appear to have written a letter to Mr. Sutherland in Constance Lake.

Mr. Therriault: Yes.

Mr. O'Connor: I take it there is an Indian band resident at Constance Lake.

Mr. Therriault: Yes.

Mr. O'Connor: Who is Mr. Sutherland?

Mr. Therriault: The chief.

Mr. O'Connor: You will notice in the second paragraph of the letter you make this reference: "The Honourable Mr. R. Fontaine has also indicated to this office your desire to have a harvesting operation conducted by band members." You are dealing with it in the context of the FMA, as you indicate in the first sentence of that paragraph. When and how did Mr. Fontaine communicate to you his wishes with regard to this band? Can you recall?

Mr. Therriault: Offhand, I cannot recall. I am not even certain whether it was a written communication or a verbal one. I really cannot remember.

Mr. O'Connor: In any event, it appears then that there may have been either oral communication or written communication back in the fall of last year, in addition to the four meetings and calls you have described in 1986. Would that make sense? We are dealing with November of last year, and he appears to have gotten in touch with you about the Indians' wishes in that area vis-à-vis the FMA.

Mr. Therriault: Yes.

Mr. O'Connor: Do you remember any kind of meeting in that regard?

Mr. Therriault: I know he expressed a concern, and I believe it was as a result of the Calstock Indian band approaching him, but offhand, at this moment, I cannot. I could probably go back and search through my records and find something, but I would have to get back to you on it.

Mr. O'Connor: All right. We may ask you to do that. Your letter indicates that he simply communicated to your office the Indians' desire to have a harvest operation conducted by band members. Do you recall what Mr. Fontaine's position was on that? Was he supporting that proposal or was he against it or was he--

Mr. Therriault: Supporting it.

Mr. O'Connor: He was supporting it?

Mr. Therriault: Yes.

Mr. O'Connor: That they therefore be allowed to cut in the FMA zone area?

Mr. Therriault: I believe the context was that they would be allowed to cut--regardless of whether there was an FMA or an FMA never happened, that the natives would have an opportunity to run an operation of their own.

Mr. Morin: That was a recommendation made in the report, I think, that the Indians should have that. Am I correct?

Mr. Therriault: Sounds reasonable.

Mr. O'Connor: What has come of that? Have they been granted any rights, aside entirely from the FMA?



Mr. Therriault: They have been told that they have the opportunity to cut up to 5,000 cords per year and that in order to get to that point, they should first of all establish a small operation on the Calstock Indian reserve which would indicate their sincerity, and we would take it from there. The FMA holder has been told that there is a commitment of up to 5,000 cords per year to the Calstock reserve and that the ministry would see that wood as being cut adjacent to the reserve, in close proximity.

Mr. O'Connor: Because of the transportation and availability, as you mention in the letter; and servicing costs would be less if it were right next to the reserve. What is the arrangement with regard to the economics of the situation? Would the profits from that cut go entirely to the reserve? Would it be shared at all with the Hearst Forest Management Inc.? Was there any deal between them?

Mr. Therriault: No. The negotiations never got to that point. Our understanding would be that there would be a third-party licence issued to the reserve, and that would give them the option of selling the wood where they could, most logically to one of the mills in the Hearst area.

Mr. O'Connor: Mr. Fontaine was promoting that arrangement?

Mr. Therriault: Yes.

Mr. O'Connor: Okay. Thank you. Perhaps we can go back to the handwritten memo, a copy of which everyone has now.

Mr. Morin: Mr. Chairman, may I have a supplementary on the question of the native band?

There was a communiqué issued by my colleagues here, and it says: "Fontaine has endeavoured to influence a public servant to resolve a problem with a local native band which is of concern to his partner in Hearst Forest Management Inc., Lecours Lumber." Were you influenced at all to resolve that local native band problem?

Mr. Therriault: I am sorry, but the context was that there was a problem and I was influenced to solve the problem?

Mr. Morin: That is right. Let me read it again. "Fontaine has endeavoured to influence a public servant to resolve a problem with a local native band which is of concern to his partner in Hearst Forest Management, Inc., Lecours Lumber."

11:40

Mr. Therriault: Certainly, he came to me. I know we discussed the Calstock situation at some point--the exact time and place do not ring with me right now--and I know he was concerned that the Calstock people had an opportunity to cut some wood.

Mr. Morin: Did he influence you in any way to resolve the problem?

Mr. Therriault: I do not believe there was any room for influence.

Mr. Morin: There was no influence at all? You did not feel threatened and you did not feel that he was really pressuring you to solve that problem?

Mr. Therriault: No, because the problem was not really sticking out there.

Mr. Morin: When I am referring to this statement, in your opinion, it is not true?

Mr. Therriault: I would rather not express an opinion.

Mr. Morin: Thank you.

Ms. Hart: May I ask another question on that? In your discussion with Mr. Fontaine about the native band involvement in the cutting of lumber, if you had known--and let us assume that it is true for the moment because I do not know--that it was a matter of concern to Lecours Lumber, would that have made any difference in how you acted?

Mr. Chairman: We are getting pretty hypothetical.

Ms. Hart: We are dealing with a statement that has been made to the press.

Mr. Chairman: No. We are not dealing with a statement that has been made to the press. We are dealing with a conflict-of-interest matter that has been referred to us by the assembly. I am not prepared to deal with anybody's press releases in here. You can have that argument somewhere else, but please do not burden me with that. We have enough trouble. What people say to the press and what they put in a press release are not matters before the committee at this point.

Ms. Hart: May I ask a supplementary? The statement has been made. I would like to ask questions based on the facts in the statement. Perhaps in this committee we could ask Mr. Sterling whether that statement is accurate.

Mr. Chairman: No. Come on, give me a break here. What a member says outside the committee is not a matter of concern for the committee until the House says it is.

Mr. Morin: I am just trying to recall. Was it said in the committee?

Mr. Chairman: No.

Mr. Morin: Were there no allegations made in the committee about--

Mr. Chairman: The allegations were presented to the committee by Mr. Brandt. Those we will deal with. The matter of conflict of interest has been referred to us by the House. That we will deal with. We will not deal with anybody's interviews with the press, press releases or whatever. You have enough evidence before you to make judgement calls and you will be asked to do that. Surely we are not going to argue among ourselves about who gave the best interview here or who was right. In the end, it will be the committee's job to make the determination of a conflict-of-interest matter. At this time, we have not had press releases referred to us, so we will not deal with them.

Ms. Hart: May I have a clarification, Mr. Chairman?

Mr. Chairman: Yes.



Ms. Hart: Are you telling the committee that allegations that arose subsequent to the referral of the conflict matter to the committee are not relevant and should not be delved into?

Mr. Chairman: If you want me to get real sticky about it, I will simply make a ruling that what is on the record in here is worthy of discussion by the committee; what is not on the record, in Hansard, in this committee is not. It is as simple as that.

Mr. Warner: That is normal. That is what happens in the House.

Ms. Hart: So I am right in saying--

Mr. Warner: If you go outside the House and make statements, that is your problem.

Mr. Chairman: To clarify it just a bit further, in the Legislature, for example, the Speaker is often asked to hear a point of privilege about what was written in some newspaper. The Speaker cannot. The Speaker can deal only with those things that are in Hansard. He has to deal with that, but he cannot deal with a news release that was put out by somebody. He cannot deal with last night's headline story on CFTO. Those are not matters in his jurisdiction. You put me in an awkward position here.

If something has been said on the record in the committee, that is something the committee will deal with, but the committee has no jurisdiction over what somebody writes, and it has no jurisdiction over what somebody says out in the hall, so it is not before us.

Ms. Hart: Very well. I will rephrase my question. Mr. Therriault, in your mind, did it make any difference to any of the participants in Hearst Forest Management Inc. whether this Indian band was given rights to cut timber?

Mr. Therriault: Yes, there was a matter of degree. Certainly, Hearst Forest Management Inc. wanted to know what the ceiling was; the amount of wood that would be committed and the terms and conditions related to that. They expressed some concern to that effect.

Ms. Hart: Do I understand you correctly that any number of cords given to the Indian band would have taken away from the cords going to Hearst Forest Management Inc.?

Mr. Therriault: In terms of a direct commitment, yes. In an indirect commitment, most probably they would buy the wood back from them.

Mr. O'Connor: To go back to the handwritten memo if I may, I just have two brief points to cover.

Mr. Warner: On a point of order, Mr. Chairman: Do we know who is the author of this?

Mr. O'Connor: No, he does not. I am only going to ask him a few questions in that regard.

Mr. Chairman: Yes. Let me try to identify the status of the document in front of us. You asked for and received all of the files where Mr. Fontaine was mentioned. This is a document that was part of those files. It is not



signed. There is a date on it. I am a little hard pressed to tell you what it is. There appears to be a date in the upper right-hand corner of February 3, 1986.

Mr. Warner: Or March 2.

Mr. Chairman: Yes, there is a little bit of confusion. It could be March 2 or it could be February 3.

Mr. O'Connor: Okay. In the light of the fact that it is not signed and no one knows who wrote it, because it refers to someone checking with you for written communication, etc., in order to assist in the preparation, it appears, of a briefing summary for the Premier's office, I am wondering if you were contacted and if you did do that. You have indicated not. Is that correct?

Mr. Therriault: I have indicated I do not remember.

Mr. O'Connor: Have you ever been contacted in connection with preparing an economic analysis of the FMA, as the memo goes on to indicate that the purpose of checking with you seems to be to prepare an economic analysis?

Mr. Therriault: Yes.

Mr. O'Connor: Have you been contacted in that regard?

Mr. Therriault: Yes, that is standard with any FMA or agreement.

Mr. O'Connor: Has that economic analysis been prepared?

Mr. Therriault: Yes, it has.

Mr. O'Connor: I am wondering if we might have access to that. In fact, that is a document that we have been trying to obtain for some time.

Mr. Therriault: I believe it may have been part of your files.

Mr. O'Connor: The cost-benefit analysis of the FMA?

Mr. Therriault: Yes.

Mr. Chairman: Maybe you could assist us. I think there is a little bit of confusion around the term "economic analysis." By that, would you take it to mean that the ministry would do a breakdown roughly of who would be expected to pay for what, what would be needed or required for roads, what kind of financing would come in from the government? We have heard some testimony that some work along those lines has been done by the ministry, that the ministry is aware of approximately how much funding would be required in the first year of the FMA, who would pay what share, what road would be built. That kind of analysis has been done. Is that what you are talking about?

Mr. Therriault: I am not sure of the terminology "economic analysis" or "economic impact." There is a standard format that is prepared by the party we signed the document with and that indicates the number of jobs, the impact on the related communities and that sort of thing. I am quite sure it is in one of these files.

Mr. Chairman: I think we have that. I seem to recall looking through that. The difficulty is that members were asking previously for a slightly different type of economic analysis of the value of the FMA to Hearst Forest Management in this case.

Mr. Therriault: Yes.

Mr. Chairman: To make the distinction, an analysis has been done, and I believe we have it, of economic impact on the area, proposed roads, how much funding would come from the government, how much would come from the co-op. That is done and we have that. Could you clarify for us if you would normally do some kind of an assessment of the value of the FMA to the company?

Mr. Therriault: Not to my knowledge.

11:50

Mr. O'Connor: It cannot be determined from your work then the kind of profit there is in the whole situation for the company?

Mr. Therriault: Certainly not in my capacity, no.

Mr. O'Connor: It seems a simple next step. If you are doing an assessment of the cost of roads and other services necessary to do the cutting, and we also know the amount of money the government is providing to the holder for these purposes, can we not just subtract the difference and calculate the profit? Is that an illogical way of doing it?

To take a simple example, if you are costing roads and other services at \$1 million and the amount of money that is flowing to the Hearst Forest Management Inc. is \$1.5 million, is it not logical to deduce that the profit therein is \$500,000?

Mr. Therriault: I do not believe it is quite that simple.

Mr. O'Connor: I presume it is not quite that simple, but taking your figures for the costs of the services and looking at what must be a public document, that is, the amount that flows to the company, from those figures can we not do some work to calculate the benefits to the company?

Mr. Therriault: The benefits to the company are not quite that clear-cut. The benefits are in things such as road subsidies, which help them to access areas where the wood should be cut quicker, and that sort of thing. They conduct the scarification as opposed to us doing it; so they get paid on a cost-recoverable basis.

Mr. O'Connor: You are saying your figures will not allow us to deduce what there is in it for the company.

Mr. Therriault: No.

Mr. Villeneuve: As a supplementary to that, would you say there are considerable cash flow advantages to these companies?

Mr. Therriault: I am sure there are advantages, yes.

Mr. Villeneuve: Cash flow advantages.



Mr. Therriault: I do not know if you would call them cash flow advantages. There are considerable forest management advantages.

Mr. Villeneuve: Which generally can be turned into cash flow.

Mr. Therriault: No comment.

Mr. Sterling: There was some discussion before in the committee hearing about the cordage for United Sawmill and the companies that United Sawmill came into. I believe Mr. Fontaine said the historical record was that United Sawmill, when it was formed in 1981, was entitled to cut 65,000 cords. Does that ring a bell?

Mr. Therriault: I believe that is the correct figure.

Mr. Sterling: Under the FMA, United would be entitled to control about 130,000 cords. Is that true?

Mr. Therriault: No, not to my knowledge.

Mr. Sterling: What would be the cutting cordage under the FMA?

Mr. Therriault: It would have to depend on the calculated allowable cut. The commitment to the three major companies in Hearst district, which were Lecours, United and Levesque, would continue to exist. When we do our calculations to determine how much wood was to be cut in the next five-year period, the arrangement is that the surplus will be divided three ways among the three companies concerned.

Mr. Sterling: What was the estimation of that?

Mr. Therriault: There were a number of estimations, but they are not finalized yet. I do not have the figure offhand. In my mind, there would definitely be an increased cut in the first five-year period.

Mr. Sterling: Under the FMA, United Sawmill and all the other sawmills are going to improve their situation in terms of supply.

Mr. Therriault: In the short term, probably.

Mr. O'Connor: I have one more point. In the material you supplied to us there was a memo over your signature dated July 8, 1986--I think we have now circulated a copy to everyone--wherein you indicate that you received a call from Ted McHale and Mark DelMonte. Can you tell us who they are?

Mr. Therriault: Ted McHale is the deputy regional director in Timmins and Mark DelMonte is a regional planner out of the Timmins office.

Mr. O'Connor: What was the nature of their inquiry or call?

Mr. Therriault: My recollection is that we were talking about the environmental assessment process that we would have to go through and whether and how to go through it, in that there would be a different approach taken if the FMA did not go through from if the FMA did go through, because the boundary of the area that would go to public review, for example, would be different.



Mr. O'Connor: You said you "had no firm plans at this time and would wait for a week or so until the dust settled re the Fontaine issue." Then it goes on to say, "It doesn't seem logical to be going public with something that to public appearances may not be approved."

Mr. Therriault: Yes.

Mr. O'Connor: If you are dealing with environmental assessment, how does that fit into that context?

Mr. Therriault: The co-operative FMA consists of three management units and parts of two others. Under the present system, each one of those management units has a separate management plan. If the co-operative FMA comes to be, there will be one big area and one big management plan to cover the whole area of the co-operative agreement.

Mr. O'Connor: I am referring specifically to your comment to the file that to public appearances it may not be approved. Do you mean because of Mr. Fontaine's difficulties in the hearings going on, because at the time of this memo these hearings had been scheduled? Is that what you were referring to?

Mr. Therriault: I believe I was referring to the fact that the FMAs seemed to be stalled. If we were to go to the public with the FMA with the new boundaries and at the same time people were saying to us, "Hey, why are you coming to us with this thing when, from what we hear in the newspapers, etc., it may not even come to pass?"; if the FMA did not come to pass, we would have to go to the public with a different set of operating plans.

Mr. O'Connor: Where does the matter stand now with regard to the FMAs? Is it still on hold pending the results of these proceedings?

Mr. Therriault: It is still on hold, yes.

Mr. O'Connor: Are there plans in the works to take further steps on it? What are you awaiting?

Mr. Therriault: I have not received any instructions except that it is not going ahead at this time.

Mr. Martel: I do not have very many questions. You met with Mary Mogford in January. Was she in Timmins?

Mr. Therriault: No, she was here in Toronto.

Mr. Martel: Did you fly to Toronto or did you have a discussion with her?

Mr. Therriault: Yes, I was in Toronto.

Mr. Martel: I am having difficulty putting this together. You had a meeting on January 21 and then flew to Toronto.

Mr. Therriault: No, the meeting was in Toronto.

Mr. Martel: Oh, the meeting was in Toronto about this?

Mr. Therriault: Yes. That is the one with the regional director present also.

Mr. Martel: Right. What triggered that meeting? Do you have any idea at all what triggered that meeting to have a briefing on the FMA?

Mr. Therriault: Yes. I believe it was the regional director's feeling that the local MPPs should be made aware of situations in their ridings. He therefore arranged the meeting with those issues in mind. The meeting was not specific to the FMA. As you can see from the agenda, there are a number of things that were discussed in a number of districts.

Mr. Martel: What bothers me is that we have four meetings. First of all, someone alluded to the fact that the Ministry of Northern Development and Mines managed to get involved. You may not want to answer this, but is it your opinion that there is some dislike by the line ministries that the Ministry of Northern Development and Mines constantly meddled in Ministry of Transportation and Communications business or in Ministry of Natural Resources business whenever it found it convenient? You may not want to answer that question, but I think I am right.

Mr. O'Connor: You are right.

Mr. Chairman: It is a rhetorical question again.

Mr. Martel: Does it not strike you as strange that four meetings were held involving you with a minister and a member involving an FMA in which he had a rather large interest?

12:00

Mr. Therriault: "Strange" is an uncomfortable word for me.

Mr. Martel: Unusual then?

Mr. Therriault: The first two meetings, no.

Mr. Morin: He is asking for an opinion. I was ruled out of order.

Mr. Chairman: We are struggling with this. Let me try. The reason the question keeps coming back is that there is some validity here.

Is it normal practice for ministry staff at your level to participate in briefing sessions with local members? Is it pretty much standard procedure in the ministry that you would be expected to sit down with the local member every once in a while and provide him with background information on what is happening in his riding and what the status of certain events is?

Mr. Therriault: Yes. In my targets, I have a target to do that a minimum of twice a year.

Mr. Chairman: That is considered part and parcel of your job, to keep the local member informed, answer any questions he has and give him a status report on activities in his area?

Mr. Therriault: Yes.



Mr. Martel: We do that all the time, but that is not what is bothering me. As one who has participated several times a year with Ted McHale, George McCormick and all the fellows who have been in the Sudbury district at one time, this is unusual. We have a minister of the crown who owns one of the companies in the forest management agreement involved in a number of meetings concerning the FMA in the area in which he is living. I realize the difficulty for him as minister is to try to get economic involvement going in his area. Hearst has been cut to the bone and needs some forest management.

Unfortunately, the minister is not supposed to do that as a minister of the crown nor, if I understand the Legislative Assembly Act, where he has an interest. It is unusual that a minister would ask for meetings with people to discuss aspects of the forest management agreement. One can argue that the forest management agreement was there when Pope and company were in business, but it is changing slightly. Levesque wants back in and the minister is right in the middle of those discussions, it would appear.

That is difficult for me to sort out. Where do you draw the line? Is it usual for ministers of the crown, either with the Ministry of Natural Resources or any other ministry, to get themselves squarely involved in those discussions in which he is obviously involved, both on one occasion in May and one occasion in April? The other two might not have been as consequential and might have been triggered by the ministry, but those latter two--he is right in the middle of those discussions.

One can argue that he was worried about his own area. That is not the issue. The issue is, should he have been involved at all? I am asking the witness if he finds it unusual that this sort of thing goes on. He made rather explicit memos; so he must have been nervous about it. That is an unusual turn of events or an unusual involvement. I am not asking him to judge Mr. Fontaine. That is our responsibility. I am just asking if he finds it unusual that someone who owns one of the companies in the forest management agreement and is a minister of the crown is going to them.

One could ask, "Is he there to try to push it or not?" My problem is, should he have been there at all since he had such a large involvement? That is the issue. All the rest is baloney. That Levesque and Cloutier did not like it does not bother me at all. That is irrelevant as far as I am concerned. My concern is, what was the minister doing there, dealing with staff and putting them in a rather embarrassing position at the same time? That is why I raise the question. I will not ask you to answer that. The chairman might cut me off.

Mr. Sterling: After all that.

Mr. Treleaven: That is a rhetorical statement.

Mr. Martel: In the meeting regarding the Indian band--my friend started to bring it to life--what was the discussion between you and the minister about? That they should get the amount of lumber cut or that they had a guaranteed number of cords or the effect of giving--maybe you could tell us more, because no one has yet seemed to put his finger on why the minister was meeting with you.

Mr. Therriault: Relative to the Indians?

Mr. Martel: Yes.



Mr. Therriault: As I said earlier, I cannot remember today the background to my letter of November 5, wherein Mr. Fontaine expressed a concern that the Indian band be looked after. I am aware that he advocated the Calstock band getting wood and that the Hearst Forest Management Inc. people wanted a clear understanding of what our commitment and their commitment was going to be relative to the 5,000 cords. I think I referred to it in one of my file memos where I indicate Mr. Fontaine said to me that Mr. Viel, who was the manager of Lecours Lumber, was looking for something more tangible than the written correspondence and the reference in the minutes of the meetings.

Mr. Martel: Was the Indian band looking for more wood?

Mr. Therriault: Not at that time. They wanted a commitment. They wanted to know they would be able to have an operation. We met with them someplace in that time frame that fall. I recollect them being reasonably satisfied with the commitment the minister was making.

Mr. Martel: Was the minister trying to guarantee that they had that right, they were going to get the 5,000, or to clarify it?

Mr. Therriault: More a clarification. He expressed a concern that was expressed to him from Viel, and I believe I responded by saying that the current commitment was adequate at that time.

Mr. Sterling: In terms of the one meeting where the manager of United Sawmill came with Mr. Fontaine, was it at your house that the meeting occurred?

Mr. Therriault: Yes.

Mr. Sterling: Did Mr. Fontaine indicate to you that he would be bringing along the manager of United to that meeting?

Mr. Therriault: No.

Mr. Sterling: Were you somewhat surprised at his arriving on your doorstep, or did you know this individual quite well?

Mr. Therriault: It was the first time he had come to my house. I guess I was surprised. I was taken aback by the fact that René was coming to the house, period, and probably in the same context.

Mr. Sterling: Did he enter into any of the discussions, or did Mr. Fontaine refer to him for information?

Mr. Therriault: I honestly do not remember his entering into it very much. René did most of the talking.

Mr. Sterling: Did you have meetings with this particular manager at other times about the FMA?

Mr. Therriault: He sits on the board. He was part of the negotiations. He was also there at the April 22 meeting that had stimulated this rendezvous.

Mr. Sterling: You were not aware of the blind trust agreement that Mr. Fontaine had put his United Sawmill shares into?

Mr. Therriault: Perhaps I was, but not in a conscious sense.

Mr. Sterling: You did not find it strange that these shares are in a blind trust and now he brings his manager along to a meeting with you?

Mr. Therriault: No comment.

Mr. Sterling: May I refer to a number of letters that were given to us from your files or the district files? I do not know whether you are familiar with them. These were passed out to the committee last week. One is the letter from Mr. Cloutier to Mr. Fontaine on July 8, 1985. Have you seen that letter before?

Mr. Therriault: Yes, I have.

12:10

Mr. Sterling: Then there was a response to that letter, I believe on September 4, to Mr. Cloutier from Mr. Fontaine. I do not know whether it is in your file. Have you seen a copy of that letter also?

Mr. Therriault: I am not certain I have seen this second one, no.

Mr. Sterling: So you did not help to draft the response in terms of the September 4 letter or were not asked to advise the minister on that?

Mr. Therriault: There might have been some advice come out of my office via Peter Brook, who normally looks after these things and usually communicates regularly with the district on any road grants that are going to occur within the district. I would be surprised if we did not have some input in that sense.

Mr. Sterling: So your office probably did have some input into Mr. Fontaine's office in regard to that.

Mr. Therriault: In this instance, I believe our input would have been very limited. The townships concerned are not in the Hearst district; they are in the Terrace Bay district, I believe. As I recollect it, the reason I have this July 8 memo is that in the initial negotiations relative to the Hearst co-operative FMA, we also looked at the possibility of seconding those two townships and placing them within the co-operative FMA area.

Mr. Sterling: In seeing this letter to Mr. Fontaine, did Mr. Fontaine show you that letter or phone you or talk to you about it?

Mr. Therriault: No.

Mr. Sterling: Did you talk to Mr. Cloutier about it?

Mr. Therriault: I cannot recall ever having done so. I may have; we had a fairly open conversation about a number of things, but it does not ring any bells, and it is not something I would have been actively interested in.

Mr. Sterling: During the summer period, did you talk to Mr. Fontaine about that problem and its conflict with the FMA?

Mr. Therriault: No.

Mr. Sterling: Or Mr. Cloutier?

Mr. Therriault: I am quite certain I would have talked to Mr. Cloutier as well as the rest of the people involved with the negotiations, because we were talking about the validity of putting those townships in or out of the FMA.

Mr. Sterling: The next letter I would like to show you is the September 24 letter, which was drafted by, or sent to--I am sorry; I do not think that one was in the package.

Mr. Chairman: We have one dated September 4 to--

Mr. Sterling: Twenty-fourth.

Mr. Chairman: Twenty-fourth? To Réal Levesque from René Fontaine?

Mr. Sterling: That one was to Mr. Levesque from Mr. Fontaine. Have you a copy of that? Perhaps you can get a copy of that before we discuss it, Mr. Chairman.

Another letter I would like to show you is dated September 25, 1985, and it is to the president of United Sawmills from the minister, Mr. Kerrio. It states, "I was pleased to meet with your company's representative," etc.

"It is very helpful to me to personally meet with representatives of the sawmilling industry to discuss matters directly affecting forest industry operations, especially in this instance where that industry is really the sole support of the community of Hearst.

"As to your specific request contained in your correspondence to me dated August 27"--which I do not believe we have a copy of--"regarding the directives on James River-Marathon and the construction of the road necessary to access" etc. That is the same matter we were talking about in terms of Mr. Cloutier, is it?

Mr. Therriault: It must be.

Mr. Sterling: Did you have anything to do with drafting this letter?

Mr. Therriault: No. The first time I saw this letter was this morning in the timber sales offices.

Mr. Sterling: This is directly dealing with the interests of United Sawmill. It would be in terms of its getting access to a timber reserve or some cutting rights. How does it affect United Sawmill?

Mr. Therriault: I am not familiar enough--as I say, I have not seen this letter before. I am assuming it has to do with that, but I do not feel qualified to answer that question.

Mr. Sterling: Okay. You will notice that at the bottom there is a blind carbon copy sent to the Honourable René Fontaine.

Mr. Therriault: Yes.

Mr. Sterling: And a blind copy sent to the deputy regional director in Timmins.



Mr. Therriault: Yes.

Mr. Sterling: Who would be the deputy regional director?

Mr. Therriault: It was probably Ted McHale, but if it was not, it was Larry Lambert. I cannot remember when the changeover took place.

Mr. Sterling: Do you know whether Mrs. Joanis is the president of United Sawmill?

Mr. Therriault: I am assuming that.

Mr. Sterling: She is a sister of Mr. Fontaine.

Mr. Therriault: Yes.

Mr. Sterling: Did Mr. Fontaine ever speak directly to you about this particular matter?

Mr. Therriault: No.

Mr. Treleaven: As a supplementary, is it unusual to put blind copies on letters such as that, a blind copy to René Fontaine and a blind copy to the deputy regional director? Is it usual to send out blind copies or just straight copies? What is your experience?

Mr. Therriault: Whenever we do a minister's letter, the blind copies usually go to the parties concerned, within the civil service certainly.

Mr. Treleaven: Within the civil service.

Mr. Therriault: Beyond that, I do not know.

Mr. O'Connor: Perhaps I can follow up briefly. You will notice the blind copy to Mr. Fontaine has been done on a different typewriter from the others. Does that mean it would have been done at a later date or at a different time from the letter itself? Does that mean anything to you?

Mr. Therriault: No, it does not.

Mr. Chairman: Are there any further questions?

Mr. Sterling: Do you have a question on that letter?

Mr. Warner: No, I have something else.

Mr. Sterling: Do you have a copy of the letter of September 24?

Mr. Therriault: Yes.

Mr. Sterling: This is a letter to Mr. Levesque from Mr. Fontaine in response, as it says, "to your recent letter concerning the March 22, 1985, reply sent to you by Mr. Bernier, the former chairman of the northern Ontario resources transportation committee." Did you help draft this letter perchance?

Mr. Therriault: I do not remember seeing it prior to its going out, but it is possible Mr. Brook would have phoned me and asked for some input; it is probable.

Mr. Sterling: What do you mean by the third paragraph? What would be meant by that paragraph? Can you interpret that for me?

Mr. Therriault: Mr. Levesque's company operates in the south end of the Hearst district, and we have had an understanding within the ministry that the NORT funding would cease at the railway tracks. I have not seen Mr. Levesque's letter. It does not ring any bells with me. He wants to operate south of the railway tracks, and I guess he is applying for subsidies under the NORT program to do that.

12:20

Mr. Sterling: Were the grants generally upheld under the NORT program until the FMA was signed over the whole area? It has been some time and the negotiations have started. Was nobody getting any money under this program until the FMA was signed, or had money been given to various companies?

Mr. Therriault: This grant actually was processed and approved.

Mr. Sterling: It was finally approved.

Mr. Therriault: Yes, it was.

Mr. Sterling: When was that done?

Mr. Therriault: I have the letter here somewhere. January 16, 1986. The funding was administered by my district.

Mr. Sterling: Is the NORT program under the Ministry of Northern Development and Mines or is it under your ministry?

Mr. Therriault: It is under the Ministry of Northern Development and Mines, but there is a close liaison because it is resource-oriented.

Mr. Sterling: I guess you cannot speculate then--was there a change in a decision that--

Mr. Therriault: We at the district level supported the approval of this grant because we recognized that Levesque Lumber had a problem relative to needing access to budworm-infested wood. I assume the reason it was not funded initially was that, if the FMA had come to pass, we would have funded it through the FMA process most probably, but I am assuming at this point.

Mr. Sterling: Yes. So the funding would shift to the Ministry of Northern Development and Mines and, in some ways, to the Ministry of Natural Resources after the FMA was in place.

Mr. Therriault: That is correct, and from 50 per cent cost-sharing to something more than that under the FMA.

Mr. Warner: I appreciate that this was the first forest management agreement you had been involved in terms of discussions and attempting (inaudible); so naturally it is a new challenge for you. I understand that in none of the forest management agreements was the Ministry of Northern Development and Mines involved; that every one of the FMAs that have been developed over the past few years had been solely the responsibility of the Ministry of Natural Resources.

Mr. Therriault: That sounds correct.

Mr. Warner: Can you confirm that? Would that sound reasonable to you?

Mr. Therriault: It sounds reasonable, yes.

Mr. Warner: May I turn to your memo of May 12? I just want to confirm a couple of the details. In the last paragraph you mention your lunch with Réal Levesque. About halfway down it says, "He indicated that the reason he felt things were going well was because the ministry was involved." Which ministry?

Mr. Therriault: The Ministry of Natural Resources.

Mr. Warner: To continue down, the last sentence says, "I mentioned the possibility of a phase-in entry, and he was noncommittal, indicating that he would just have to wait and see what response to the minister's letter." Which minister?

Mr. Therriault: The letter he wrote on April 24 to the Minister of Natural Resources, expressing his concern.

Mr. Warner: I see. He was anticipating a response from the Minister of Natural Resources, and that is the reference there.

Mr. Therriault: Yes.

Mr. Warner: You say the reason he felt things were going well was that the Ministry of Natural Resources was involved. Did he elaborate at all on why he felt good about things?

Mr. Therriault: I cannot specifically say at that instance he would have, but there was a good deal of anxiety on his part. He felt he could not do business with his competitors and that sort of thing, particularly after the meeting of April 22, when he was told he could not enter when he wanted to enter. He felt he had been pushed aside, I guess.

Mr. Warner: By his competitors?

Mr. Therriault: By Hearst Forest Management Inc. Thereafter, we became much more involved in sitting down with one party, the other party or both parties, and he felt more comfortable with that.

Mr. Warner: Because his ministry was handling it. He felt comfortable that it was being handled properly and professionally and that the agreement would be an agreeable one.

Mr. Therriault: At that time we were talking about a third-party licence, I believe, and he felt comfortable that we were looking after his interests and concerns. My perception was that he felt he was being treated in a fair manner by the ministry.

Mr. Warner: This is two days later. This must have been kind of a difficult decision for you. Two days prior to that, Mr. Fontaine indicates he would prefer that Mr. Levesque be given a separate agreement. You know he is a minister of the crown, not the minister responsible for the decision over the FMA but a minister of the crown; and then you meet with Mr. Levesque. You have made a professional decision about how to proceed, and you have attempted to



finalize negotiations, with which Mr. Levesque is happy but Mr. Fontaine is not happy. Is it fair to characterize it that way?

Mr. Therriault: It is fair to say that Mr. Fontaine was not happy because the FMA was stopped. It is certainly fair to say that the ministry's position, and the position I have reiterated to Mr. Fontaine, Mr. Levesque and Hearst Forest Management, was, "Hey, we want you all in here together."

Mr. Warner: The previous memo of April something--I missed the actual number on that, but it is the one where you mentioned you had received a visit from René Fontaine--he had communicated with United and Lecours Lumber. He told you he had spoken with them, phoned them, written them? Do you recall how he described that?

Mr. Therriault: I remember his saying specifically he had talked to René Viel. I cannot remember the details of how he talked to United, but he had Mr. Duval with him on that particular day.

Mr. Warner: So he indicated he had an interest or an activity in contacting United and Lecours?

Mr. Therriault: Yes. He indicated he had definitely talked to them about the issue and the April 22 meeting. Whether he contacted them or they contacted him, I do not know.

Mr. Warner: As you mention and as my colleague mentioned, it is apparently the practice that local MPPs would be apprised of activities in the area by ministry officials, and that is very good; I am very pleased to see that. I find it very disturbing when I read these memos, however, because it is more than simply being apprised.

Mr. Fontaine initiates a couple of the meetings, and he is communicating with the companies involved. Presumably that communication, in an effort to reach an FMA, would be the responsibility of the Ministry of Natural Resources and of the civil servants, not the responsibility of the local MPP and certainly not the responsibility of a local MPP who has an economic interest in the agreement being signed. I would not ask you to comment on that.

Mr. Chairman: Thanks a lot.

Mr. Warner: That is why I am disturbed.

Mr. Bossy: Mr. Therriault, you told us you joined the ministry in 1984, I believe.

Mr. Therriault: No, sir. I moved to Hearst in 1984.

Mr. Bossy: Okay. So your involvement in the FMA basically started in 1984, when your knowledge about the FMA and the pursuit of what had taken place previously was brought to your attention. Regarding the meetings that had taken place to arrive at an FMA, when you were first made aware of it, at what stage were the discussions then?

Mr. Therriault: It was right from the inception.

Mr. Bossy: You were right there from the inception?

Mr. Therriault: Yes. I believe the first meetings were summer or early fall of 1984.

12:30

Mr. Bossy: As you have been made aware, there have been letters that have gone back and forth. We referred to letters of September 24. I quote here--this is in response to a letter of March 22, 1985--so that there was a complete continuation towards the achievement of that FMA. That may have included prior discussions, in the earlier going Mr. Fontaine even being involved in that, prior to becoming a member of the Legislature, as an executive of United Sawmill and then Hearst Forest Management Inc.

What I am trying to arrive at here is that we still do not have an FMA really now, because it is held up, but in the proceedings to arrive at an FMA, a conclusion that would be arrived at, were there any interruptions within your ministry because of Mr. Fontaine's involvement?

Mr. Therriault: To the best of my knowledge, no; not until this most recent one.

Mr. Bossy: So the FMA itself that is now held in abeyance or whatever it is has not been changed from the original plans of that, to arrive at an FMA agreement?

Mr. Therriault: I am not sure. We negotiated the FMA, and the concept has remained the same. The conditions have changed as we have moved along.

Mr. Bossy: Looking back at the original request or the formation whereby Mr. Levesque decided not to participate, and then the other key players went ahead--and they would go ahead in the forest management group; he was not included in that--I am trying to arrive at why he would want to become part of the agreement. Is it the ministry that has encouraged him to become part of that co-op so that it would be more manageable?

Mr. Therriault: Yes. He wrote a letter--I believe it was in late December--at the open house or the public input portion of the FMA and indicated he was not in favour of it and why, and we responded. Some time not too long thereafter he determined that it might be in his best interests to become part of the co-operative FMA. I believe his first tangible interest in becoming part of the FMA was probably in March--I believe it was March--a letter from his lawyer to ourselves.

Mr. Bossy: It troubles me, because the statement has been made here this morning again as to the major shareholder of that, and we are talking about the major shareholder of United Sawmill or Hearst Forest Management; there is a difference. I have information that Mr. Fontaine has maybe 50 per cent in United Sawmills, but he is only a one-sixth shareholder of Hearst.

Mr. Chairman: That is a matter of record, so there is not much in the way of argument here, and those documents are before the committee.

Mr. Villeneuve: I will not be too long. Mr. Therriault, back to the FMAs. Are you one of the chief government negotiators in the Hearst FMA that is being negotiated?



Mr. Therriault: Yes. I am the chairman of the steering committee.

Mr. Villeneuve: Therefore, you are the key player on behalf of the government.

Mr. Therriault: I guess you could say that, yes.

Mr. Villeneuve: Is there a lot of competition up there between the three major sawmills, United, Levesque and Lecours?

Mr. Therriault: Competition for?

Mr. Villeneuve: Competition for markets, competition for lumber, competition for labour--I guess there is no problem with labour--but they are competitive companies.

Mr. Therriault: That is correct. They are all in the same business; so there is an element of competition, yes.

Mr. Villeneuve: The FMA was initially set up with only Lecours and United. Would you say those are the two biggest companies up there, are they pretty well all the same size or which is the biggest?

Mr. Therriault: Lecours has the largest volume, Levesque must be second and United would be third.

Mr. Villeneuve: So it troubled you that Levesque was being left or had some degree of apprehension about joining Hearst Forest Management Inc. You were fighting hard to have the three come in as equal partners, so to speak?

Mr. Therriault: Yes.

Mr. Villeneuve: Levesque had a change of heart some time in May?

Mr. Therriault: No. It was earlier than that--probably March.

Mr. Villeneuve: After the open house and after expressing the concerns of his particular corporate entity as opposed to who was already there.

Mr. Therriault: Yes; after expressing a number of concerns he had.

Mr. Villeneuve: Had you gone ahead and not been the advocate that you were and had you left Levesque on the outside, could that have meant that if they did not get an FMA or whatever, they could have dropped off the map as a business?

Mr. Therriault: I do not believe so. The ministry has gone down in writing as saying that all three companies should be treated equally and that if Levesque chose not to join the co-operative FMA, we would ensure, to the best of our ability, that his interests would be looked after. Our preference was to have him in there as part of the co-op; but regardless of that, he would still have an equal opportunity for things such as road funding and surplus work.



Mr. Villeneuve: Therefore, you wanted to operate on an equal basis for all three companies and you literally insisted on it.

Mr. Therriault: Yes.

Mr. Villeneuve: You have your files and memo here about the visit Mr. Fontaine made to your home, and you say there are problems--lack of trust. That is what obviously came out in the open house you held, explaining to the public what was happening.

Mr. Therriault: There was very little public attendance at the open house. It came out in Mr. Levesque's letter to the ministry.

Mr. Villeneuve: You are telling us that Levesque did not trust Hearst Forest Management Inc. or the people there at that time?

Mr. Therriault: I believe not. He had apprehensions about his ability to be treated fairly and that sort of thing, yes.

Mr. Villeneuve: That concerned you very much?

Mr. Therriault: Yes.

Mr. Villeneuve: And that was one of the reasons Mr. Fontaine visited your home on that Sunday afternoon?

Mr. Therriault: Yes.

Mr. Villeneuve: In your opinion, if Mr. Fontaine had not been involved or had not even been elected, would the Hearst forest management agreement now be signed?

Mr. Therriault: Yes.

Mr. Villeneuve: Thank you.

Mr. Morin: Mr. Chairman, looking at the clock, I think it is time for lunch.

Mr. Chairman: You are right. We could almost get that motion through here, except I have one other member who has a--

Mr. Treleaven: Two short questions.

Mr. Chairman: We will start it off with one short question, not two short questions.

Mr. Treleaven: I would just confirm that there is a 50 per cent grant--I am referring to the September 24, 1985, letter, "Financial Assistance for Access Roads"--if there is no FMA, but it is higher than 50 per cent if there is an FMA. Is that what you said?

Mr. Therriault: Yes. My understanding of the northern Ontario transportation committee is that it will fund up to 50 per cent of the cost, to a maximum number of dollars, and under the FMA the amount we would pay for road grants is higher.

Mr. Treleaven: It is higher. That is one of the advantages of going into an FMA from the point of view of the operator.

Mr. Therriault: Yes.

Mr. Treleaven: Right. Thank you. The other thing concerns these four meetings you have referred to in your memo. Was Roland Cloutier at any of these meetings?

Mr. Therriault: The four meetings we talked about earlier?

Mr. Treleaven: The four meetings Mr. Fontaine was at.

Mr. Therriault: No.

Mr. Treleaven: At how many of them was the manager of United Sawmill? He was at one at least.

Mr. Therriault: Only one, yes.

Mr. Treleaven: Only one. Thank you.

Mr. Chairman: We will stand adjourned until two o'clock.

The committee recessed at 12:41 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

THURSDAY, SEPTEMBER 11, 1986

Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witnesses:

From Hearst Forest Management Inc.:

Cloutier, R. A., President; Director, United Sawmill Ltd.

Pratte, G. J., Counsel to Mr. Cloutier; with Blake, Cassels  
and Graydon

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, September 11, 1986

The committee resumed at 2:12 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr.-Chairman: We can proceed for this afternoon. The witness is Roland Cloutier, who is here as the president of Hearst Forest Management Inc. and as a director of United Sawmill.

I draw to the committee's attention two things before we proceed this afternoon. Last week you asked for an opinion from legislative counsel, from Merike, on sections 10 and 11 of the Legislative Assembly Act. You have that now; it was provided for you this morning. You also have a request from Mr. Pratte to appear before the committee, and I have indicated that we would deal with that matter at the end of today's proceedings.

Roland Cloutier sworn.

Mr. Chairman: Mr. Cloutier, do you have a statement you want to make?

Mr.-Cloutier: Yes. I would just like to make a correction to your introduction. I am not a director of United Sawmill.

Mr. Chairman: Okay. Thank you. Do you have any other statements you want to make this afternoon?

Mr. Cloutier: Yes, I have a statement.

Mr. Chairman: Okay. Proceed, please. Mr. Pratte is here once again as counsel for a witness.

Mr. Cloutier: I am at a disadvantage; I am not a politician and I am not used to sitting down in this type of committee, nor have I done any work in view of answering questions today, but to the best of my ability I will try to help you.

I am not a lawyer, I am not a politician, I am not a forester and I am not here on a partisan basis. In fact, I am here and I am quite mad. Several curve balls have been wildly thrown since the inception of this committee: at me personally, at the company I was working for and at the company I am working for. Without talking any further than that, I hope my statement will straighten out some of those unfounded allegations. When I say that, the allegations, they refer to those who have made them--that is all--not to all of the committee.

Although I officially resigned my position of general manager of United Sawmill Ltd. in January 1985, I remained there until Christmas 1985, at which time my services were terminated. I retired. It was a known fact that I had resigned from United Sawmill for health reasons and that I probably would be available for undertakings that carried less stress than those of general



manager of United. To this effect, during October 1985, I was approached by the general manager of Lecours Lumber Co. Ltd., one of the shareholders in Hearst Forest Management Inc.--and you will see throughout the text that I have put in HFMI; that means Hearst Forest Management Inc.--asking me if I would be prepared to undertake the managing of the Hearst Forest Management Inc. on a part-time basis beginning in 1986--and for any of you, when you reach your retirement age, you will find that you are maybe happy to get a small job on the side; I know you have not already, but one of these days you will reach that stage--to which I indicated I was.

As I had been involved with other United Sawmill representatives from the beginning, together with Levesque Lumber and Lecours, and then only United and Lecours with officials of the Ministry of Natural Resources, to some extent I was aware of the situation. This job opened up a new area of experience to be acquired, in regard to silviculture, which I was not that familiar with.

When the company, Hearst Forest Management, Inc., was incorporated in March 1985--not in 1983 as the Globe and Mail says--shareholders were divided equally, and thus would be in a bind if they could not agree on something. I was asked to act as president on May 14, 1985, and Mr. Viel as secretary-treasurer. I accepted this post at the time, knowing very well that it was at the discretion of the shareholders. At any rate, the ministry wanted to know if the company was incorporated and who the shareholders and officers were, so this structure, although temporary, would suit the bill.

There currently are approximately 28 forest management agreements in the province, and the goal of the Ministry of Natural Resources is to have 35 by 1987. I could be wrong by one or two, but that is basically it. This would include the Hearst FMA, which is no different to others. In 1979, the first FMAs developed were for pulp and paper companies. However, during Mr. Pope's tenure as Minister of Natural Resources, he decided that sawmills also should have access to FMAs, because it was impossible--it had been only for pulp and paper. To this effect, the first sawmill FMA was signed with Malette Lumber or Waferboard Corp.; I do not know which. The second one was with Dubreuil Lumber in Dubreuilville.

In 1984, whenever meetings would be held with MNR people, discussion would turn to FMAs. It was frequently suggested by them that the Hearst mills ought to get together and work for an FMA, as this now seemed to be what the ministry wanted--contrary to what the Globe and Mail says, that we were actively lobbying the government since 1983--have less crown units and transfer responsibilities for silviculture over to private industry, as well as all the planning, to assure the next crop, subject to their final approval and determination.

On that general line of thought and feeling this was what the ministry wanted, the three sawmill companies in Hearst got together and in early 1984 wrote to Mr. Pope asking him to initiate discussions between the ministry and the mills involved with the view to reaching agreement on an FMA for the Hearst area. Normally, an FMA is signed with one company. However, in the case of Hearst, there were three sawmills involved in procuring timber from the same general area. Therefore, some new structure would have to be found whereby a central point for administration and day-to-day operation of the agreement would take place.

A proposed structure as to how this could be managed was prepared by a professional forester on November 26, 1984, which at the time seemed to be acceptable to all three sawmill firms, not only United. This was subsequently presented to MNR, which in principle thought this was a good way to go about it. The three sawmill companies were Lecours Lumber Co. Ltd, Levesque Lumber Co. Ltd. or Custom Sawmills and United Sawmill Ltd.

At a meeting in December 5, 1984, at Kapuskasing, Mr. Levesque chose to opt out of the group negotiations for his own reasons and said he wanted an FMA for himself and the two others could get one for themselves if they so wished. The ministry's position was one FMA for the Hearst area and, therefore, two FMAs would not be accommodated. Mr. Levesque persisted in this position and was never in contact with Hearst Forest Management Inc. regarding the FMA from that time until April 22, 1986. Remember that.

14:20

Any suggestion that René Fontaine did anything at any time to keep Mr. Levesque out of the FMA is simply outrageous and without foundation. Remember that too. In fact, as I will explain later, Mr. Fontaine's only involvement in the internal business of HFMI had to do with facilitating Mr. Levesque's participation once he decided he wanted into the FMA.

I hope everybody understands that. Mr. Sterling? Oh, he is over there. He understands this.

Mr. Sterling: I am asking the questions on this.

Mr. Cloutier: MNR confirmed that there would be only one FMA for the Hearst area. Efforts by the ministry and some members of the Hearst Forest Management Inc. asking Mr. Levesque to reconsider his position and come back with the group were to no avail.

In view of this, a letter dated February 6, 1985, was sent by Mr. Pope--I assume to each sawmill company in the area--requesting a commitment to participate in a joint FMA by February 28, 1985. The copy is attached here. That letter also mentioned that a company with mills in the Hearst area not participating in a joint FMA would have its wood requirements filled by operating as a third-party licensee on the FMA area. I am aware that United Sawmill replied affirmatively on February 18, 1985, and I assume other companies replied as well. However, I am not aware of the content of their replies.

On March 12, 1985, a letter from the new Minister of Natural Resources, Mr. Harris, was received, saying that MNR staff would meet with the companies on March 28 to plan the work necessary to complete the agreement discussions by the summer of 1985.

Several meetings took place between MNR staff and representatives of United Sawmill and Lecours Lumber. Mr. Levesque chose not to attend. At a point, MNR was more or less insisting that we get on and form the company proposed in our document, as there would be legal requirements by the MNR to that company. On March 7, the company was incorporated and on May 14, 1985, officers were appointed. Going through records of meetings, the last meeting Mr. Fontaine attended in relation to the FMA was on March 28, 1985.



The last official meeting for the steering committee, in which negotiations were taking place, took place on February 10, 1986. There were a few touch-up meetings between local MNF foresters and the Hearst Forest Management Inc. forester with a view to making minor changes to the final draft. The agreement was supposed to be signed and operative for April 1, 1986. MNR's goal for the FMA was to have all three parties signatory to the agreement, and I do not believe I am wrong in saying the local district manager went out of his way to get Mr. Levesque to join the group.

After he became a minister, Mr. Fontaine was not involved in any way whatsoever in the negotiations of the terms and conditions of the FMA, which were finalized in March.

Because the negotiations were proceeding in an orderly fashion, MNR had advised the Hearst Forest Management Inc. to conduct itself as if the FMA was to be operative for April 1, 1986. To this effect, information would be required of HFMI which would necessitate input from all sawmills. However, we were never able to acquire this information from Levesque Lumber as it would not return the calls and simply chose to ignore Hearst Forest Management.

On November 19, 1985, a letter was received from Mr. Markus, director of timber sales, directing HFMI--assuming the FMA would be in place--to make available certain volumes of timber to processing plants as listed. I am sure you have a copy of this letter.

Hearst Forest Management itself will have no cutting rights, although it is the FMA holder. All the cut allowable is distributed by this letter and this directive holds for the duration of the FMA.

My duties as manager of Hearst Forest Management began officially January 6, 1986. From the contents of Mr. Markus's letter, I felt it was my job to negotiate third-party agreements with all the parties listed, so that, come April 1, paperwork would not delay physical operations in the forest. All parties, whether or not they were shareholders, would require a third-party agreement. I believe you have a copy of the proposed third-party agreements.

Agreements were negotiated successfully with Levesque Plywood, Welwood of Canada, Lecours Lumber and United Sawmill. The Levesque company was presented with a draft for negotiation, but chose to ignore it. Time was going by and still the agreement with Mr. Levesque was pending. However, the indications we were receiving from the Ministry of Natural Resources were that, whether or not Mr. Levesque was a shareholder of Hearst Forest Management Inc. and in line with Mr. Pope's letter, he would be operating under a third-party agreement, his fibre supply would be assured and therefore he could expect no disruptions to his operation. I assume this message was passed on to Mr. Levesque and that there would be only one FMA. If he wanted to be part of the FMA holders' group, he had better do something pronto.

I assume, pursuant to this, that Mr. Levesque's counsel, Lawrence Herman of Cassels, Brock and Blackwell of Toronto, contacted Mr. Markus by a letter dated March 21, 1986, advising Mr. Markus that if certain conditions were met, there was a possibility of his client participating in the co-operative agreements for the harvesting, etc., of timber in the Hearst Forest Management unit. Mr. Markus sent me a copy of this letter and a date of April 22, 1986, was arranged for a meeting to discuss the elements of this proposal. On April 17, 1985, Ronald Nadeau, comptroller for Levesque Lumber, presented me with a draft numbered 2 of a unanimous shareholders' agreement.



At this point, one must keep in mind that there had been no contact or discussions about the FMA between Hearst Forest Management or Mr. Levesque since April, since what I mentioned a while ago, and that a unanimous shareholders' agreement had been prepared without any contact with the other shareholders who, after all, had negotiated faithfully with MNR since November 1984, had tried to be as co-operative as possible and by that time had already spent close to \$100,000 to keep Hearst Forest Management in business, shared the cost with MNR for an NSR survey--that means not sufficiently regenerated--and the cost of a spruce budworm survey, etc. All these expenses were solely supported by Lecours and United Sawmill. Needless to say, the atmosphere was very tense at the meeting, which took place on April 22.

At this meeting, a position was established that because of what I have just said, Hearst Forest Management shareholders were not agreeable for Levesque to become a shareholder of Hearst Forest Management before five years after the signing of the FMA. By the way, when I say Hearst Forest Management shareholders, that does not include Mr. Fontaine; there are other shareholders in United Sawmill. Still, this position in no way affected his third-party position.

Although it was mentioned at the meeting that the signing of the FMA would proceed anyway, there was suddenly an atmosphere that, regardless of what we had been told, it was doubtful MNR would proceed with the signature under the circumstances by not having the three mills as shareholders.

At this point, I, Roland Cloutier, personally felt that on those conditions regarding Mr. Levesque's entry, regardless of the indications that the agreement would be signed anyway from MNR and since the supposedly effective date of April 1 was long gone, I took it upon myself as manager of the company, not at the directive of the shareholders because I am not a shareholder, because I felt there had been too much time and effort placed on this undertaking that simply to let it go down the drain, which in my opinion was the direction it was heading for, to call Mr. Fontaine and make him aware of the happenings at the meeting.

14:30

He mentioned that the five-year proposal was too long, and I personally agreed. He also said the forest management agreement was for everyone, including Mr. Levesque, and better ways had to be found to settle this, relating to Levesque becoming a shareholder. We had no discussion about the terms of the FMA itself; our discussion on that had already been completed for quite a while. Our discussion related only to the internal difficulties the company was experiencing.

On May 29, I received a call from Mr. Therriault indicating that in all likelihood Levesque would have to be a part of the Hearst Forest Management Inc.; that the Ministry of Natural Resources would decide, place conditions in the agreement and it would be signed as soon as possible, and perhaps two years would be acceptable, because I had discussed this with Mr. Therriault at different times.

On May 30, 1986, a letter was sent to Mr. Therriault advising that the present shareholders had reviewed their positions and were ready to accept Levesque as a shareholder within a period of two years and that negotiations for terms and conditions of entry would begin six months after the signing of the FMA. Mr. Levesque had been requested to outline a new position, which he apparently did. I am not aware of his position.

However, Mr. Therriault advised that those two letters were acceptable to MNR to proceed with signing the agreement. It was also stated in our letter that Mr. Levesque would be accepted as he had requested; that is, with equality of ownership, voting rights and participation in decision-making.

To this date, there is no agreement. It has seriously affected all companies' plans for this year. In other words, it has been a brilliant exercise in profound frustration.

In 1979 and the early 1980s, the Hearst mills were threatened with a reduction in allowable cut. During that period, efforts were made by MNR, spearheaded by Mr. Markus, to add new area to the existing crown units. He and his staff were successful in reaching that objective. These new additions succeeded in maintaining, not increasing, the level of allowable cut which existed and still exists today; that is, Levesque Lumber, 63,000 cords, not as mentioned in the MNR report on cords, where it says 58,000 for Levesque. I believe it has made an error; otherwise, the directive we received is not correct. It was 63,000 cords for Levesque, 67,000 cords for United because of the purchase of another firm, and 88,000 cords for Lecours Lumber, for a total of 218,000 cords annually that can be removed from the traditional crown units, prior to the advent of the FMA.

As it now stands, without the FMA and considering the large budworm infestation, which has already killed several hundred thousands of cords of prime sawlog timber, mostly white spruce, it is very doubtful that the three existing mills could even continue for very long at the present established level of allowable cut.

Throughout, Hearst Forest Management Inc.'s purpose of existence is to be more or less the co-ordinator or the go-between between MNR and the firms operating under the FMA. MNR will bill Hearst Forest Management Inc. for ground rent. Hearst Forest Management Inc. will turn around and bill the participating firms on a pro rata basis for this charge and at the same time include a charge for administration to offset its operating costs. In other words, Hearst Forest Management Inc. is almost a charitable operation; it is going to work nearly at cost. That is about the size of it, and that is a fact. There is no need to laugh; it is a fact.

Hearst Forest Management Inc. was not set up to make any profit from the FMA. Currently, MNR is funding and paying to someone the costs of its road construction and/or maintenance programs every year. It is also utilizing contractors and paying them for site preparation. It is also doing planting and paying someone to do it. Maybe that represents \$2 million or \$3 million a year in the Hearst area; I do not know, but it is certainly spending a lot of money.

With the advent of the FMA, it will turn those responsibilities over to the participants and has agreed to pay those firms actually doing the work certain amounts of moneys for each different activity conducted. That means no work, no pay. Work will have to be performed in accordance with the ground rules of the agreement, and after acceptance by the MNR inspectors, payment of funds will be authorized. It is certain that the companies participating in Hearst Forest Management will not make any profit from the moneys which the Ontario government will pay them to do this work. In other words, there is no markup or profit margin in this.

The purpose of an FMA, as I understand it, is to harvest the oldest or overmature or infested wood first so that it can be recuperated before it dies



and becomes a total loss for the province and everyone associated with the forest industry. To achieve this, a program of accelerated harvest may be proposed, which will then have to be approved by MNR. Such being the case, accessing or road programs will have to be introduced accordingly.

Where there are no FMAs, normally logging cuts are made progressively in the forest, pretty well regardless of what is happening further down. Roads are built each year as required for the normal cut and paid for by the firms concerned. With the FMA, it is quite conceivable that to achieve balanced management and provide the maximum amount of fibre to the companies, the accelerated road program will come in.

This is the only area where I can see potential for economic gain for the first few years of operation. However, this potential will very quickly disappear once the overmature timber is harvested and firms have to backtrack and log the younger wood, where most of the roads would be already made. Then funding for roads will drastically reduce, but the ground rent charges will remain regardless.

Another factor that is very important to keep in mind is the fact that funding for roads is appropriated yearly in the Legislature and therefore subject to wide fluctuations or reductions. Who knows what it will be even one year from now? The throwing around of figures--\$40 million or \$50 million--for years can be very misleading, as no one knows. I do not know, and I am sure you gentlemen do not know either. Rather, I believe, looking at it from year to year makes much more sense.

Furthermore, there is a five-year audit clause. Supposing the FMA is not renewed for certain reasons. How does the alleged \$40 million fit in? There is also a clause which says that if the parties do not agree on the ground rules after the first five years, the agreement can be cancelled.

What we know is that the ground rent was \$19 per square kilometre a few years ago. It went up to \$32.25 per square kilometre and recently increased to \$34 per square kilometre. What will it be next year? In five years? In 20 years? I am inclined to think only higher. What will you gentlemen as politicians vote for road funding?

In my opinion, there are just too many variables involved for saying there are to be gains benefiting certain companies when in fact it may not be true at all. If it was true, why are there already 25 FMAs in the province? If that is a fact, companies must be making lots of money.

Rather than a benefit over a period of time, it will turn out to be a substantial cost increase to all the firms concerned, especially when one recognizes that you now have also to deal with the class environmental assessment for timber management on crown lands in Ontario, which by itself will substantially increase costs, let alone the other factors.

So then why go into an FMA? For those of us who have been in the business for a long time, we know that when MNR suggest something, be it gently or not, it is up to us to organize and work according to their wishes, as they are the boss. Ultimately, we must do what they want. We know that if we do not go along and co-operate, it will be implemented somehow by foresters and probably will be twice as costly to the companies.

An advantage of an FMA is that it permits you a greater flexibility in planning operations. Once your five-year plan is approved, you have more



leeway in your physical operation. To me, this is the real gain in having an FMA. Then, depending on your efficiency in operating, you could turn this flexibility to a monetary gain. If you are not efficient, it is too bad. It is hoped this will counterbalance the expected additional costs of operating the FMA.

14:40

This for the benefit of Mr. Martel. I read some of the transcripts, and he was asking the value of an FMA. I do not know whether he got the answer. I believe he wanted to know what an FMA is worth. Frankly, it is difficult to attach a monetary figure to this type of agreement. Currently the firms concerned hold timber licences that represent relatively the same volume they will have under the FMA. Once the Ministry of Natural Resources approves a mill licence, it more or less commits itself to supply timber to this plant for as long as timber is available, and it looks after the silviculture.

Licences that are issued for one, two or three years are just as much on a sustained-yield basis as they would be under an FMA. The FMA brings in new logging approaches and different planning processes for the next crop. In both cases, the objective is the same. The FMA gives you better security of tenure in a sense because you know now, whereas with short-term licences you could be in an area for a few years and then move to another area 50 miles away and it costs money to move. That would be the only important difference between the present licensing system and the FMA.

A complete logging operation with the associated lumber manufacturing plants today, comparable with the plants you have in Hearst, might represent an investment of \$20 million to \$25 million. I am talking about a turnkey operation from A to Z, the whole thing. If one were to try to dispose of such a complete operation with the present licensing system and the allowable cut as now exists, the same volume, depending on many factors such as markets and excluding the United States countervailing duty that is proposed, distance of the fibre from the mill etc., let us assume one could recover perhaps 60 per cent of his investment.

I doubt very much that the FMA would have any impact, because the same outside factors would still be there. The only area where it could have an impact of some sort would be where, because of the FMA, the annual allowable cut would be substantially increased, but again it would not affect it much because the real high value is in the investment for logging equipment, haul trucks, tractors, sawmill, planning mill, dry kilns, carry-lifts, etc. There is no end to it. The fact of having a licence, allowable cut or an FMA in the case of a sale would permit you to recover only some of those investments, and in my opinion there is not much difference one way or the other.

That is about all I can say on whether it is worth something.

During the course of this winter, Hearst Forest Management Inc., together with Mr. Therriault of MNR, met and had discussions with the local band at Constance Lake, whereby with the upcoming FMA it would harvest 5,000 cords of timber annually and make it available for sale to any one of the mills. This is also in limbo at this stage.

With respect to the allegation that United Sawmill improperly or illegally increased its cutting rights, I can assure you that the volume of timber allocated for the processing mill of United Sawmill, through the various independent licences from the crown to Arrow Timber, Polar Lumber and

Mooseland, a total for the three licences of 62,000 cords, which would be referred to as the annual allowable cut, has not increased or decreased since Mr. Fontaine went into politics. It was business as usual.

Licences were issued at different times to replace expiring ones as necessary and as required. However, these have to be related to the cutting approvals, which in fact determine what can be cut under a licence within an operative year. In certain years, because of market conditions, labour problems or weather factors, a company may harvest more or less than its prescribed annual volume, normally after discussion with the ministry forester assigned to the particular crown unit. However, over a period of five years, the allowable figures would normally balance out fairly close under normal circumstances.

I again repeat that whether there were three, five or 10 companies, the annual allowable cut was not increased.

I have reviewed the graph submitted by Mr. O'Connor, which purported to show that United Sawmill increased its cutting rights by using licences under the names of predecessor companies. This allegation is totally false. They have not increased their cutting rights by having more companies, as I believe was demonstrated by the analysis of Mr. O'Connor's figures subsequently prepared by the Ministry of Natural Resources.

In 1981, when all the companies were merged as United Sawmill Ltd., there still remained the same volume of timber available from the crown: 62,000 cords. I am talking about the licences that are proposed under the FMA unit, not third-party licences under Spruce Falls or other places.

At the time, it was decided that all the assets and liabilities of the different previous companies would be transferred to United Sawmill Ltd., but the timber cutting rights would be retained by Arrow, Polar and Mooseland and applications for cutting timber would continue to be made as in the past, namely, under the names of the existing licensees and not under United Sawmill Ltd., which, however, would be responsible for the payment of crown dues to the ministry.

This decision was arrived at because in the past Mr. Fontaine had apparently wanted his Polar licence to be transferred to the name of Fontaine Lumber, and he had been advised that a transfer was quite a chore and was not really required as long as the volume remained the same. Taking that into account, as well as sentimental reasons for hanging on to licences that in all cases have been very difficult to obtain, plus the fact that some of the owners of the companies merging had not entered that willingly--because it is not all family; there were some strangers there--in the new venture, and not knowing too well how they would get along, it was decided to maintain the existing names of the licensees.

Shortly after United Sawmill was formed, I was asked personally by a local unit forester whether I wanted the licences to be put in the name of United Sawmill. For the reason outlined, I replied that I did not. This was never questioned by MNR until this year, when we were advised, throughout the FMA negotiations, that timber was in fact being allocated for the existing processing plants and not necessarily to individual companies, and further that on April 1, 1986--if it reads 1987, it should be 1986--the tentative date for the FMA to be operational, all licences would be issued in the name of the firm whom the sawmill licence was issued to.



Regarding the renewals of timber licences in 1985, I know of nothing that could make me doubt Mr. Fontaine's testimony before this committee that he was not aware of this, as the applications were prepared by the forester in the normal course of doing business and Mr. Fontaine would not even know that was going on. That is normal in most businesses.

I also want to deal with the allegation made in a press release issued by the Progressive Conservative caucus on September 2, 1986, to the effect that Mr. Fontaine was issuing road grants to United Sawmill and that he was denying the same treatment to Mr. Levesque. This is a total misrepresentation of the facts. Here I am not going to add phrases to a letter when it is supposed to have been (inaudible). The history is as follows:

On February 8, 1985, Mr. Pope wrote to the three Hearst sawmills, Levesque, Lecours and United, advising them that he had made arrangements with James River-Marathon Ltd. to provide 10,000 cords from that company's licence to each of the three Hearst sawmills. A copy of Mr. Pope's letter is attached.

By the way, this has absolutely nothing to do with the Hearst FMA; it is completely separate.

While the three companies were obviously pleased by Mr. Pope's directives, it was necessary that a new road be built so that the Hearst companies would have access to the wood Mr. Pope was allowing them to cut. It was always understood that this road would be a public road. Accordingly, on behalf of Lecours Lumber, United Sawmill and Levesque, I wrote to Mr. Fontaine on July 8, 1985, to see if the northern Ontario resources transportation committee would consider, under its funding program, financially assisting the construction of this public road. A copy of the letter is attached.

On August 27, 1985--that is when Mrs. Joanis was supposed to have seen Mr. Kerrio--she had never been in Toronto. I was; I, Roland Cloutier, was there. I hope somebody will correct that.

Mr. Morin: You said 1985. Did you mean 1985 or 1986?

Mr. Cloutier: I meant 1985. On August 27, 1985, I presented a brief to the Honourable Mr. Kerrio, Minister of Natural Resources, on behalf of the three companies to which Mr. Pope had written. The purpose of the brief was to ensure that Mr. Pope's directive would be carried out. Mr. Fontaine introduced me and the other representatives from the sawmills, including Mr. Levesque, to Mr. Kerrio, but he did not participate in the presentation. As a matter of fact, we were supposed to read the brief, but we never even had a chance to read it. When the briefing on the issue of Mr. Pope's directive was concluded, I and the Lecours group wanted to talk to Mr. Kerrio about the FMA, because Mr. Levesque was not in; he had opted out of the negotiations. At that point, Mr. Fontaine withdrew from the meeting and remained with Mr. Levesque; he was therefore absent when we discussed that topic with Mr. Kerrio. I should also make clear that, contrary to what has been suggested, Mrs. Joanis did not attend this meeting--unfortunately, for the newspapers.

On September 4, 1985, Mr. Fontaine wrote to me as representative of the three Hearst sawmills. He told me that any funding would have to await a formal agreement with James River-Marathon and that, in any case, under the funding program the northern Ontario resources transportation committee's contribution would be "50 per cent of the actual cost up to a maximum of \$40,000 per mile." That meant the three companies would have to pay for the



rest if it cost more, and if it cost less they would get 50 per cent. It also meant the government would pay funding only for audited costs. There was no possible way that any financial benefit or profit would accrue to the three companies involved.

In any event, none of the companies ever got any funding assistance, because in December 1985 Mr. Kerrio revoked Mr. Pope's directive. I have attached the letter. There was therefore no longer a need to build the road. It was the first time in history that Hearst had ever lost cutting rights, which it really badly needed. Any suggestions therefore that Mr. Fontaine had ever used his influence is absolutely unfounded. Maybe if he had not been there we would have got it--I do not know--but we ended up not getting it.

As for my role not as an adviser, but a consultant--I hope you will correct your copies, please--to Mr. Fontaine's blind trust, the facts are that in December 1985 Mr. Gagné approached me inquiring whether I would care to act as consultant for Canada Trust regarding Mr. Fontaine's blind trust. I asked what this entailed. He said, "I guess just attending board meetings on their behalf and reporting to them." Since this was the case, and knowing by experience that meetings were not held that frequently, and in order to prevent someone from travelling from Ottawa or Toronto to attend a meeting--more than likely not at all familiar with the lumber and logging business and perhaps costing a lot of money unnecessarily--I accepted. On December 30, 1985, I signed an affidavit which said I would not disclose to the settlor or anyone on his behalf any knowledge of the trust estate I acquired during such consultation. I believe you have a copy of the trust papers.

It was my belief that whenever Canada Trust would require that I attend a meeting or function relative to this blind trust, they would advise me to do so and report to them. I must say this is not what happened, as I have never received any request of any kind--or word of any kind, or any documentation of any kind--from them giving me directions to act on their behalf. Therefore I did not act in any way, shape or form.

Mr. Sterling, I fail to see where the direct line of communications existed, where I was in constant communication with Mr. Fontaine and that I was managing his business. There was nothing to report as I have not acted and was never consulted. There are people managing that business together with other active shareholders and Roland Cloutier has nothing whatsoever to do with United Sawmill Ltd. Any suggestion that I ever discussed the business of United Sawmill with Mr. Fontaine since he became a minister to this day is absolutely false and defamatory; nor did I ever discuss with Mr. Fontaine anything whatsoever about the forest management agreement until April 22, 1986, as I have already explained.

In so far as my appointment to the board of the Northern Ontario Development Corp. is concerned, I must point out that the appointment was made by the Ministry of Industry, Trade and Technology. I should also underline that it is not particularly remunerative, since it pays a per diem of \$105 and not \$100,000 a year and there is an average of one meeting per month.

I understand, Mr. Sterling, that my appointment was done in the same manner and by the same procedure as all other previous appointments to boards are normally made. I must assume that if I was appointed, my résumé, which I had previously been asked to provide, must have indicated that I was qualified to sit on that board, and I will not deny that. Frankly, your assumptions that

this was a direct pipeline for information on NODC are simply unbelievable coming from such a distinguished gentleman as you. Surely you are aware that when a new member is sworn in, he has to take an oath of office and secrecy. To me, that is exactly what it means. No doubt any minister wanting information on NODC has access to all kinds of officials and civil servants who can provide any information he requires. There is absolutely no need to come to Roland Cloutier for that.

I have tried to be open-minded about all this, but you have mentioned my name so often in this committee, alleging everything is a sham and placing my integrity in doubt. I have explained all the facts related to my appointment and surrounding my relationship with René Fontaine, and I now hope that you will be honourable enough to apologize for those erroneous, misleading allegations. You could have asked me to attend the committee prior to today instead of letting those innuendoes float unanswered.

Mr. Sterling: The Liberals were trying to cut us off.

Mr. O'Connor: They would not do that.

Mr. Chairman: Just let the witness complete his statement.

Mr. Cloutier: Furthermore, I am sure you are aware or you ought to be aware that there is absolutely no connection whatsoever between Hearst Forest Management Inc. and NODC. Should the FMA materialize, I am sure you are aware that any funds released for that purpose are from the Ministry of Natural Resources and not from NODC.

This sums up my presentation. I have tried to provide you with a general overview of the facts and the situation as it is. Thank you for hearing me out. Now I will try to answer some of your questions, if I can.

Mr. Martel: I only have one concern and you referred to it on several occasions in your presentation. Assuming the minister is not supposed to talk to anyone about an FMA agreement, since his company might be a participant in it, what would prompt you to phone him as a consultant, adviser or anything in April 1986, since the minister is not supposed to be involved in any discussions whatsoever, as I understand the guidelines anyway, of a forest management agreement, in which he is part owner? What would prompt you to make that phone call?

Mr. Cloutier: I would not call him under the trust agreement I have signed because I had not been consulted by Canada Trust in that respect. I would call him as the representative for Cochrane North. We had what I felt was something viable that we had all worked on, the companies and the Ministry of Natural Resources. I am sure MNR must have spent \$200,000 with a view to getting this FMA. I called him because I was concerned that this thing was going down the drain and that FMA was important for all the mills. Is that your question?

15:00

Mr. Martel: I understand what you are telling me, but it does not take away from the fact that, even as the member for Cochrane North, he should not have been called by you or anyone else if somebody has some of his



holdings in a blind trust. He is not supposed to be discussing any of those issues, and someone is opening up the discussion with him. We are now aware that the former minister talked to the Ministry of Natural Resources on four occasions in 1986, once at its invitation for a briefing and three other times he requested the meeting. You opened up discussions with him about the terms of the FMA.

My friend shakes his head, but he was called. Your statement says so quite frankly, and I have marked it off. You say you called him. Starting at the bottom of page 9, you say: "I felt there had been too much time and effort placed on this undertaking to simply let it go down the drain as in my opinion it was the direction it was heading for, to call Mr. Fontaine and make him aware of the happenings at the meeting."

What did you expect to achieve? Fontaine is not in a position to pursue that information, theoretically, hypothetically or any way you want. He is not to be involved. Why would you want to call him to tell him that?

Mr. Cloutier: I did not call him about terms of the FMA. That had already been pretty well--the final draft was ready for signature. What I did tell him is that there was an internal problem between the companies. That is what I called him about, for the signature. It was all ready to be signed.

Mr. Martel: Surely you put the minister then in a position where he is involved. He is not supposed to be involved at all. The terms of reference, anything, whether it was two years, five years or six months--Fontaine is not supposed to be involved in any of that. If I understand what is going on or the way this is supposed to occur, he is not to be contacted and he is not to be involved. Why were people going to Fontaine at that time?

Mr. Pratte: Mr. Cloutier is not on trial.

Mr. Cloutier: I understand that.

Mr. Martel: Pardon me. I understand you are the solicitor. I did not ask you a question. I am not trying to put him on trial either.

Mr. Pratte: Sir, you are implying that my client has behaved improperly or breached some rule.

Mr. Martel: I am not implying anything, so do not put words in my mouth, sonny.

Mr. Cloutier: Mr. Martel, what I would say is, first of all, the FMA was not going to be authorized by Mr. Fontaine. He was not the Minister of Natural Resources.

Mr. Martel: I understand that.

Mr. Cloutier: Here you have a problem that concerns several companies. I am the manager of Hearst Forest Management, and this has nothing to do with my blind trust. So I am contacting him to see him as a person, MPP for Cochrane North, whether there is any way that he could find to get the three parties together.

Mr. Martel: That is exactly my point.



Mr. Warner: That is why he is in hot water.

Mr. Martel: That is why he is in hot water. Surely you should not have been contacting Mr. Fontaine.

Mr. Cloutier: Why not?

Mr. Martel: Because he owns one of the companies and he is a minister of the crown.

Mr. Sterling: It does not matter whether he is a minister.

Mr. Martel: Even if he is just an MPP and not a minister, you are involving him--someone is involving René--in a discussion which he should not have been involved in, in my opinion. Maybe I am all wet. I want to tell you that the last person you should have contacted was René Fontaine.

Mr. Cloutier: When there is a problem in your riding, do your people not contact you?

Mr. Martel: I do not own anything, my friend, in my riding except my little piece.

Mr. Cloutier: Regardless, people contact you when there is a problem. Right?

Mr. Martel: That is right, except I do not have a viable financial interest in one of the companies that is involved in the FMA.

Mr. Cloutier: I have tried to explain that--

Mr. Martel: I understand that.

Mr. Cloutier: --there is no viable interest there, although he might be a shareholder. In Hearst Forest Management his interest is 16.5 per cent. When Mr. Levesque becomes a shareholder, if you want to break it down, Mr. Fontaine's interest will be 11 per cent.

Mr. Martel: You have tried to explain away the viability of a forest management agreement, but there are benefits. Where you decide to build the road ultimately, using financial assistance from the province, allows you to extract wood from an area you might not otherwise be able to go into because you do not have the funding. It is a possibility that you decide you are going into that area to cut, and the money you receive helps to construct the road. I am not talking about cash in one's pocket; I am talking about how it helps to make these things viable.

It also means, if you look after your forest management agreement properly, if you continue to renegotiate it every five years and do it well, you will have a cut in perpetuity. That is good business.

It is also important for the company to achieve those goals so you have a supply of wood in perpetuity. I am not talking about cash in the pocket; I am saying there are benefits to a company. Anyone who pretends there are no benefits--

Mr. Pratte: All the Ministry of Natural Resources witnesses said to you, sir, that there were no benefits.

Mr. Chairman: Mr. Pratte, this is not the first time you have visited the committee. On other occasions I tried to make it clear that you are here to advise the client. We offer that privilege to anyone who appears before us as a witness. You are not here to respond to questions from members of the committee. I do not want to be nasty but I have tried to explain this to you on a number of occasions, enough times that I am sure you understand. I do not want to hear from you this afternoon. You have a client with you. Talk to your client. Do not talk to this committee.

Mr. Martel: I am not trying to be hard. There are benefits. We would not have moved to FMAs and we would not have become involved in FMAs if there were not benefits both for the companies and for the government. I think we agree on that. If it had not been beneficial for the crown to move to that system, to try to reforest, to try to have the roads, to try to assist the forest industry because it was having trouble with road allocations, they would not have done so.

A long time ago Quebec moved to bring the plots of land together so one was not spending a lot of money building roads. I am sure you will agree that was all part of it. We were doing that to benefit everyone--the province, the community, the industry. For one to say out of hand that there is no benefit, someone is going to have to convince me that there are no benefits. Frankly, I do not believe it.

Mr. Cloutier: I did mention there are some benefits if you are able to use your efficiency in management. That is the only place there would be. If you are not efficient, you will not get it.

Mr. Martel: Okay, I am just--

Mr. Cloutier: Excuse me, could I just add in this particular case some of that benefit could be reduced because, in the case of Hearst Forest Management Inc., which is unusual regarding FMAs and other situations, here there is an administration charge because someone has to pay my wages as a forester. So you have a new cost, \$1 per cord. It does exist.

Mr. Martel: I am trying to make one point. There are benefits to be accrued over the long haul. If you are efficient, you will get your licence renewed, and things are going to work out well for everyone, let us hope, for Hearst, for the companies, for the government, for the province. That brings me back to my original point. I cannot understand why people contact Fontaine, because he is a minister of the crown. He is also an owner of one of the companies, whether it is 11 per cent, 16 per cent or two per cent.

What worries me is people bring Fontaine into the picture to tell him about the conditions but are they supposed to be bringing Fontaine into the picture to tell him, since that is supposed to be held in a blind trust? No one is supposed to talk to him about what is going on in that business or in that forest management agreement. I understand he is supposed to be a minister of the crown who is not involved in any of that. I come back to my question. Why would anyone worry about what Fontaine thought because his share is in a blind trust? Why people come back to Fontaine is beyond me.



Mr. Cloutier: Mr. Fontaine was not called because he had any interest in the United Sawmill Ltd. That was not the reason at all. There about 5,000 people in Hearst. Leaving aside Mr. Fontaine and me, that leaves 4,998 other people who could talk to him about the FMA, because everyone knows about it and asks, "What the hell is going on?" Other companies call me and ask, "What is going on with the FMA?" You called. You have an elected--when we had Mr. Brunelle there, we would call Mr. Brunelle. When we had Mr. Pope, we would call Mr. Pope. We call the people who are there to represent us.

15:10

When I called for Hearst Forest Management Inc., that was my job there. That has nothing to do with the blind trust. I tried to explain what I would do with the blind trust, but I had to be requested to do so. Okay? At Hearst Forest Management, it was my job and my duty to find out what was going on. I would call everybody under the sun to find out, including Mr. Fontaine or anybody else.

Mr. Martel: You could have called everybody under the sun; but in my opinion, the one person you should not have called was Mr. Fontaine, because he was not only a minister in the cabinet but also has one company directly involved.

Mr. Cloutier: I tried to tell you why he was called. He is our representative and--

Mr. Martel: What worries me is that it comes back to Fontaine's statement here and in the House that he had no discussions about this company from the time he became minister.

Mr. Cloutier: About his company.

Mr. Martel: That is what worries me. René gets a phone call from somebody. He might not have initiated the call. Then he says to us, "I had no involvement." Somebody is involving him whether he likes it or not--

Mr. Cloutier: I phoned.

Mr. Martel: --by instigating the discussions with him. The guy, with the help of his friends, maybe unwittingly, is in a dilemma. Let me put it that way.

Mr. Cloutier: I have to repeat my answer. I work as manager of Hearst Forest Management.

Mr. Martel: I do not care what you were trying to do.

Mr. Cloutier: People call me: "What is going on with the FMA?" I have to get information. Mr. Fontaine could not tell me he was going to resign. He would have to tell me, "I will have to find out," because it is not his decision.

Mr. Warner: Mr. Cloutier, perhaps I can go to page 9 of your statement, point 15. I want to make sure I have the information clear. At the point you are discussing, you are the manager of Hearst Forest Management Inc.

Mr. Cloutier: Yes.



Mr. Warner: That is your sole capacity. You are no longer employed by United Sawmill.

Mr. Cloutier: Not in any way, shape or form.

Mr. Warner: Right. There are three potential partners to the agreement. Is that right?

Mr. Cloutier: Yes.

Mr. Warner: You have concerns about the progress of the FMA.

Mr. Cloutier: Yes.

Mr. Warner: In your position as manager, did you contact all three companies?

Mr. Cloutier: As a matter of fact--I do not know the date--when we would contact the Levesque company, we would not get any return calls. The gentleman who was here this morning--I guess it was Mr. Therriault; I have not seen the transcript--must have explained to you all the efforts he made to get Mr. Levesque to come and sit down.

We have been sitting down with the Levesque company to negotiate a third-party agreement, as I have said, and we have come to a point where it is more or less understood that as soon as the FMA is signed, they will sign the third-party agreement. You see, a third-party agreement is required regardless of whether you are a shareholder of the company; so we have come to terms on that basis. Probably he will sign it as soon as the FMA is signed.

Mr. Warner: Maybe my question was not clear. You indicated in section 15 that you had contacted Mr. Fontaine to make him aware of what had happened at the meeting.

Mr. Cloutier: Yes.

Mr. Warner: You did so because you were concerned about the progress of the FMA.

Mr. Cloutier: Yes.

Mr. Warner: I am wondering whether at the same time you contacted all three companies with which you expected to be partners in this venture. You mentioned Levesque. There were two other companies, United Sawmill and Lecours. Did you contact or attempt to contact Lecours?

Mr. Cloutier: I do not think you have the overview quite right. We had the meeting on the 22nd with Mr. Levesque and his Toronto lawyer, United, Lecours and Hearst Forest Management. This is where things did not go very well in our decision. The other two shareholders, Lecours and United, objected to Mr. Levesque entering right away because of all the bad terms that had been going on for a year and a half. They were not even prepared to let him in, but they agreed to five years. It was subsequently reduced to two years.

I did not have to call him; he knew all about it. I called Mr. Fontaine to let him know that the meeting had not gone well and that I felt this whole FMA was going down the drain because the three parties could not agree, to see if he could do anything to improve the situation for the three parties to get in.

Mr. Warner: Did you anticipate or expect that having Mr. Fontaine apprised of this situation would be of some assistance?

Mr. Cloutier: There was a situation where five years was mentioned and then the two years came about, and I am sure he had something to do with that. It was a compromise, and the other shareholders agreed; they accepted that. A letter was subsequently sent to MNR confirming that.

Mr. Warner: You contacted Mr. Fontaine to elicit his activity, his support, to be of assistance in finalizing the FMA.

Mr. Cloutier: That is right. The joining of forces.

Mr. Warner: You were hoping that Mr. Fontaine would be actively involved in bringing about the finalization. Quoting from your statement, Mr. Fontaine mentioned that the five-year proposal was too long. Did he say why?

Mr. Cloutier: Too long? It does not make sense. If you persist in keeping the five years, this whole thing is going to go down the drain, although MNR had indicated from the first that, whether or not Levesque was a shareholder, the FMA would be signed. Throughout all the negotiations we were never told that if Levesque was not a shareholder, it would not be signed; so we were going on and on. They were waiting and hoping that Mr. Levesque would make a move and accept coming in. He did not want to come in at that time.

Mr. Warner: The five years is too long. What did you think was a reasonable length of time?

Mr. Cloutier: My own opinion is that it would have been better to have all three parties together right away. But there had been a lot of dissension. You have to be honest about it. If you argue with a woman for two years or a year and a half and all of a sudden you want to go to bed with her and you call her and say, "Here are my terms and conditions and this is what I am going to pay," I think she is going to tell you she has a headache that night. I say, with all due respect, that is about the size of what happened.

Mr. Warner: The length of the proposal, whether it was five years or something less, is one of the terms and conditions of the FMA. Is that correct?

Mr. Cloutier: As I said, MNR wanted the three parties. From the first the three companies were agreeable. They called it a co-op, but in fact it turned out that it is a corporate structure. It is a company, and there would be three shareholders. But because one party pulled out--he was not pushed out; he pulled out--their intent was for a co-op FMA to have all three parties together. If the minister comes to Hearst to sign an FMA, it does not look very good to have only two companies there.

Mr. Warner: Let me reword the question: You mentioned that you thought the five-year proposal was too long.

Mr. Cloutier: That was on my own.

Mr. Warner: Whether it is five years, three years, two years or six months, the length would ultimately end up as part of the FMA.

Mr. Cloutier: No. That is not part of the FMA. The terms and conditions of the FMA are already established. The draft was there ready to be signed. It is only a matter of who is going to sign it, the minister and who else is going to sign it on behalf of the companies. That is all.



15:20

Mr. Warner: In contacting Mr. Fontaine, you felt he would be helpful in coming up with a better arrangement?

Mr. Cloutier: Somehow.

Mr. Warner: As far as you know, is that what happened?

Mr. Cloutier: If the Ministry of Natural Resources had told us, "Listen here, boys, that is enough of this horsing around; we are not going to sign that FMA unless the three parties are on the dotted line," that could have been it.

Mr. Warner: Was Mr. Fontaine eventually helpful?

Mr. Cloutier: To some extent, I believe. Mr. Levesque had also sent a letter to the ministry. I do not know what the contents of that letter were; perhaps Mr. Sterling knows, but I do not. I do not know what his position was. He told us he was waiting for a reply from the minister.

Mr. Warner: I wanted to clarify that, and I think I understand it now. While you were in a manager's position and all the companies were aware of the negotiations and that meeting of April 22, because things had bogged down, in contacting Mr. Fontaine you felt that by using his abilities or influence they might be able to get a better arrangement.

Mr. Cloutier: With the Ministry of Natural Resources? Sure.

Mr. Warner: Did it occur to you that contacting Mr. Fontaine in that way might place him in a conflict-of-interest position?

Mr. Cloutier: Not at all.

Mr. Warner: But you were managing his affairs at that stage.

Mr. Cloutier: I was not managing his affairs. I am sorry.

Mr. Warner: We are talking about April--

Mr. Cloutier: I was manager of Hearst Forest Management Inc.

Mr. Warner: Yes.

Mr. Cloutier: United Sawmill is a shareholder of Hearst Forest Management, not René Fontaine directly.

Mr. Warner: But Mr. Fontaine at that stage had placed his business dealings in your hands in a blind trust.

Mr. Cloutier: I had never received any instructions from Canada Trust to do anything for Mr. Fontaine. I was never consulted. I am under oath here, and I am telling you this.

Mr. Warner: I understand that, but I assume you were also under oath to Mr. Fontaine that you would have his best interests at heart in assuming the responsibility of a blind trust. Is that not so?



Mr. Cloutier: No. I was not to disclose what I would be requested to act upon by Canada Trust to Mr. Fontaine or anyone else. That entailed three things.

Mr. Warner: I understand that. I am not sure my question is clear. When you assumed the responsibility of the blind trust on behalf of Mr. Fontaine--

Mr. Cloutier: To be consulted.

Mr. Warner: I assume you took his business interests seriously.

Mr. Cloutier: No.

Mr. Warner: You did not take them seriously?

Mr. Cloutier: I do not think you quite understand. I was to act when consulted only. If I were consulted on a particular item, that is what I would look at and make a recommendation to Canada Trust. Then they would decide. That was my--

Mr. Warner: Who was running the store?

Mr. Cloutier: United Sawmill, which is an operating company. They have 250 people working there, for Pete's sake. They have a general manager and another shareholder who is active; they have all kinds of people. They are running the store. They do not have anything to do with me.

As a matter of fact, there was no way I would get involved in the business of discussing it with anybody, because there is a new general manager. If I had spoken to Mr. Fontaine about his business and he had spoken to that general manager and said, "Cloutier told me this," this guy would say, "If Cloutier wants to work here, call him and tell him to come back here."

Mr. Warner: Line up for a job.

Mr. Cloutier: I did more than I was required to under that trust. I conducted myself--

Mr. Warner: If you were not actively involved, was Mr. Fontaine minding his own store?

Mr. Cloutier: This you ask Mr. Fontaine. Do not ask me.

Mr. Warner: You are not sure?

Mr. Cloutier: I am not saying I am not sure. I am saying you ask Mr. Fontaine that.

Mr. Warner: That is fair enough.

Mr. Cloutier: What he does is not my business.

Mr. Warner: Did it occur to you at all that, aside from the fact that Mr. Fontaine was in the cabinet, even being an MPP who owned or had a great financial interest in one of the companies that you are attempting to assist in these negotiations, by calling him in a dual role you were placing him in a bad position?

Mr. Cloutier: I was not trying to assist United Sawmill any more than Lecours Lumber or anybody else. We were directed to make such wood available. I was working for Hearst Forest Management, and that was my sole responsibility. My connection with United had been severed. I had enough trouble there with the union and all kinds of problems. My nerves were shot; that is why I had to get out of there. I did not associate myself at all.

This was a part-time job, which I was very glad to do, and I did it to the best of my ability on behalf of Hearst Forest Management. We have set up a company and opened an office. We are spending money there and doing nothing really. I started six to eight months ago and we are still at the same stage. We are \$100,000 in the hole. I have it hard as manager of that company to see that things move. They were held up not because of negotiations or terms and conditions; that was all over with. It was supposed to be signed, but MNR was waiting for the three parties. It was not telling us, but that is what it wanted. It was dragging it out; that is my feeling.

Mr. Morin: This is a hypothetical question. Let us say Mr. Fontaine were not an MPP and therefore not a minister. As you indicated, there would be sort of a stall, a standstill, with nothing moving. Who would you have appealed to in order to solve that problem?

Mr. Cloutier: I would have appealed to the person I knew was directly connected. We tried to contact Mr. Kerrio, but we were never able to contact him.

Mr. Morin: Obviously, Mr. Fontaine was known as a person who understood the problem very clearly. He had a thorough knowledge of the problem and knew that if he did not get involved, the whole community of Hearst would suffer. I am asking you a hypothetical question. You do not have to answer it if you feel it is not fair. In order to help his community, Mr. Fontaine got involved to force the agreement through; otherwise, everything would have fallen through and the whole community would have suffered. Am I correct?

Mr. Cloutier: If there is no FMA, the companies would continue to survive on the same basis as right now.

Mr. Morin: I am talking about the agreement.

Mr. Cloutier: Probably if Mr. Fontaine had not been there we would have an agreement right now. Whenever there was a problem, we called our local MPP, the man who represents us. When Mr. Brunelle was the minister, we called Mr. Brunelle. In this case we called Mr. Fontaine, not because he was the Minister of Northern Development and Mines, but because we knew he had this at heart and could probably help. He has not been involved in the terms and negotiations when you are talking money. He was out of that.

The agreement was ready, it was drafted, but it was not coming forth because even though the Ministry of Natural Resources had said, "We will sign it anyway if there are only two companies," we knew it did not really want that. It wanted the three companies, and the agreement was being dragged out. It was supposed to be in force by April 1. Now we are in August and there is still no FMA. The companies have made plans. They are calling me to say, "What is going on with the FMA?"

After that meeting, which I knew was pretty bad--if you cannot improve the situation to have the three parties sign on the dotted line, I do not know



whether you will get an FMA. That was the idea behind all that. I do not know what Mr. Fontaine did. We came out with a position of two years, and that seemed to be acceptable, but we still have no FMA.

Mr. O'Connor: You indicated that on April 22 you had gone through a difficult meeting. The other two companies were pushing for a five-year term before that could become part of the deal. Is that correct?

Mr. Cloutier: Yes.

Mr. O'Connor: The whole thing was going to fall apart, so you phoned René to see if you could resolve that?

15:30

Mr. Cloutier: If he could help, yes.

Mr. O'Connor: If he could help. I suggest, and correct me if I am wrong, that in that conversation you discussed two years instead of five, that two might be a compromise which would satisfy the two partners, who wanted five, and the ministry, which wanted nothing. Is that correct?

Mr. Cloutier: That was bounced around, alternatives. I was not right, so what is right?

Mr. O'Connor: Is that right? You did discuss the two years as a good alternative?

Mr. Cloutier: Yes.

Mr. O'Connor: Because we know that within a week of that phone call, Mr. Fontaine visited Mr. Therriault, and Mr. Therriault's memos indicated that Mr. Fontaine was now suggesting two years. We were wondering this morning where that two years came from, and it appears now it was as a result of a discussion that you had with him as a compromise. Is that right?

Mr. Cloutier: Probably. I do not recall exactly the discussion, but I know--basically, my point was five years is too long and, crikes, we do not want this FMA to disappear now. There is too much at stake, expended in time and effort; so let us find a compromise so the three parties can sign this and get the show on the road.

Mr. O'Connor: Mr. Therriault's memo says he had communicated, that is, Fontaine had communicated with United and Lecours Lumber and that René Viel from Lecours was opposed to bringing Levesque in right now but would do so in two years. He was suggesting at this point two years, and I am suggesting that he got the two years after a discussion with you, that that was an acceptable compromise between nothing, which the ministry wanted, and the five years, which the others wanted.

Mr. Cloutier: I could not give you 100 per cent for sure on that, but it is possible we discussed it. Five years was too long, and we tried to find an alternative.

Mr. O'Connor: In any event--



Mr. Cloutier: Excuse me. When you said he discussed with United, that was not with me.

Mr. O'Connor: Who would that would have been with?

Mr. Cloutier: I am not United.

Mr. O'Connor: Who would it have been with?

Mr. Cloutier: It would be people that work at United.

Mr. O'Connor: Who at United? Do you know?

Mr. Cloutier: There is a general manager there and there are active shareholders.

Mr. O'Connor: Do you know whether he did in fact discuss it with them?

Mr. Cloutier: I do not know.

Mr. O'Connor: Are you not a director of United?

Mr. Cloutier: No. I said that at first to correct Mr. Breaugh's statements.

Mr. O'Connor: I know you were general manager, but you are not a director?

Mr. Cloutier: I am not a director, no, and I hope somebody will clear that up once and for all.

Mr. O'Connor: In any event, does the situation stand right now that everybody is agreeable to two years and that is likely what is going to happen if we get all of this out of the way?

Mr. Cloutier: Hearst Forest Management, the other party, sent a letter to the ministry and we confirmed--Mr. Levesque wanted his terms of entry specified and we are applying them exactly the way he wanted. I do not know any more whether it is acceptable or not, because he always told us he was waiting for a letter from the minister and I do not know whether he got it.

Mr. O'Connor: As I take it, he is now agreeable to waiting the two years and then becoming part of it. Is that right? You do not know.

Mr. Cloutier: I do not know. What I know is that he told us he would sign the proposed third-party agreement as soon as the FMA was signed.

Mr. Sterling: I would like to say that it was my motion which afforded you the opportunity to come in front of us and clarify the record.

Mr. Cloutier: I cannot hear you.

Mr. Sterling: I would like to say it was my motion that brought you here and afforded you the opportunity to clarify the record.

Mr. Cloutier: Yes. I read that.

Mr. Sterling: Mr. Fontaine's colleagues opposed that motion for you to come here. I would like to have had you here earlier, but there were several motions on the part of the Liberals to close down these hearings at earlier dates.

Mr. Chairman: Which is tough to do with four votes on a committee of 10.

Mr. Sterling: Mr. Cloutier, I would like to apologize to you in terms of your taking my interpretation of the blind trust as a specific allegation against Roland Cloutier. My concern arose after hearing what the Premier had done to change the guidelines under which ministers of this government have to live, that is, setting up the tool of the blind trust and allowing people like Mr. Fontaine to remain in the cabinet while maintaining an interest in a private corporation. If they had not changed the rules in September, Mr. Fontaine would have had one of two choices: he would have had to sell his shares in United Sawmill or he could not become a cabinet minister. That is clear.

I was interested in the tool when I was talking about your role in the blind trust. When we look at the tool of what a blind trust is all about, I became concerned when I saw you were an adviser to Canada Trust, knowing of your involvement in the Hearst community and of your very deep involvement in United Sawmill for 20 years or some period of time. Also, you were involved in Hearst Forest Management because you were the manager of it and you were appointed to the Northern Ontario Development Corp., which would necessarily involve you in perhaps other conversations with Mr. Fontaine's contacts.

My suspicion at that time was that to set up such types of trusts where you could put someone who was very much at ease with the settlor, Mr. Fontaine, is not right in the minds of the public. It is not only important that Mr. Fontaine not dilly-dally around in his businesses while he is a minister but it is also important that he not be seen to do that.

I take your word that outside of the April 22 call you did not breach the terms of that blind trust. But we found out this morning that Mr. Fontaine has treated the blind trust with little interest, or whatever. He took the manager of United Sawmill on an afternoon or a weekend to see Bill Therriault, who is the district manager. My understanding is that when you set up a blind trust, the idea is that you then cut off your involvement with that company.

Hearst Forest Management is United Sawmill.

Mr. Cloutier: No, sir. It is not.

Mr. Sterling: Certainly it is. They are 50 per cent owners.

Mr. Cloutier: It is not even a subsidiary of United Sawmill. I will clarify that. I am no lawyer but, frankly, it is not.

Mr. Sterling: But when you receive directions you receive directions from the shareholders. Is that correct?

Mr. Cloutier: I receive directions from the general manager of United Sawmill.

Mr. Sterling: From United Sawmill.

Mr. Cloutier: From the general manager, but that is not me. I receive directions.

Mr. Sterling: Who gives the general manager of United Sawmill his directions?

Mr. Cloutier: There are three shareholders.

Mr. Sterling: That is right.

Mr. Cloutier: Maybe it is the other two.

Mr. Sterling: We are back to Mr. Fontaine.

Mr. Cloutier: Maybe it is the other two; maybe it is not Mr. Fontaine.

Mr. Sterling: What I am saying is that in the normal structure of things, Mr. Fontaine is a one-sixth owner of Hearst Forest Management Inc. at this time.

Mr. Cloutier: Mr. Chairman, could I interrupt? You did not interrupt me when I was speaking, and I appreciate that, but will you permit me to interrupt?

Mr. Chairman: Sure.

Mr. Cloutier: To me, that is very close to my heart. It was all in the newspapers when it was reported by Mr. Harris in the House. It was a crying shame, "Cloutier appointed to NODC," giving him a direct pipeline and everything.

I accept your apology for what you said, but I want to go further and have you apologize for whatever you said when you intimated there was something wrong with the fact that I was appointed to NODC. Then we can talk civilly. It is very important, sir.

Mr. Sterling: I do not think I ever indicated that on the record. If you can show me on the record where you should not have been appointed to NODC, I would like to see it.

Mr. Cloutier: The first night I got a call from the Toronto Sun that said those guys did not want you there.

Mr. Sterling: You had better speak to the Toronto Sun.

Mr. Cloutier: You seem to have lots of faith in the Toronto Sun. Anyway, you intimated it enough times. Nearly every day you would say, "Is that Roland Cloutier who was appointed to NODC?" There is some uneasiness between the other members of the NODC and me because of what you said. Clarify it.

Mr. Sterling: Mr. Cloutier, you have to understand that you were put in three positions at once. I think it was unfair to you.

Mr. Cloutier: I have worked in 10 before.



Mr. Sterling: Unfortunately, you were not dealing with a situation where in one of them you represented the interest of a cabinet minister, entering into a significant contract with the Ontario government. That is the problem here.

15:40

Mr. Cloutier: What is the link with Northern Ontario Development Corp.? There is an oath of secrecy in office there and I respect my oath.

Mr. Sterling: I accept that.

Mr. Cloutier: If you apologize for intimating that something is wrong because I have been appointed to NODC, I will accept it--

Mr. Sterling: I never said that.

Mr. Cloutier: --and then we will talk.

Mr. Sterling: I cannot apologize for something I did not say.

Mr. Cloutier: If you do not, I will have difficulty answering any of your questions. I will answer to the chairman.

Mr. Warner: You cannot apologize for the Sun either.

Mr. Sterling: That is right.

Mr. Cloutier: When there is smoke, it is because there is fire.

Mr. Sterling: At any rate, the whole problem we will have difficulty with in the future is determining what a blind trust means.

Mr. Cloutier: Do you want me to read what I signed?

Mr. Sterling: I know what you signed.

Mr. Cloutier: I will read it to you; and not only that part, I will read you something else.

Mr. Sterling: Perhaps you can answer the questions I ask.

Mr. Cloutier: Okay, go ahead.

Mr. Sterling: On July 24, I asked Mr. Fontaine a question. You were not there. I was referring to a meeting a group of people had with Mr. Tworzyanski and Mr. Markus on September 27, 1985, about a forest management agreement.

"Mr. Fontaine: I was not there. I do not know what you are talking about.

"Mr. Sterling: You were not there and you were still a director of Hearst Forest Management Inc.

"Mr. Fontaine: I was told by my adviser to stay away from this. Then, after that, everything was put in a blind trust. I do not know. I saw the letter over here that you are talking about. That is it."

I tried another question.

'Mr. Sterling: At that time, you still owned United Sawmill and it was--

'Mr. Fontaine: I was there at that meeting, sure. I had been advised to stay away from my companies and I did. Then, later on, I put everything, United Sawmill, in a blind trust."

From that, in my view, Mr. Fontaine considered both Hearst and United off boundaries and that is what I understood the blind trust was all about, the fact that they were both off boundaries. I do not blame you for calling Mr. Fontaine on April 22 to try to iron out a problem with Hearst Forest Management Inc. It was your job to try to get the thing on the road. What I was saying about the trust agreement, about your having been involved with Mr. Fontaine in a formal business capacity and about your being involved with NODC was that all those things put you in an impossible position to deal with Mr. Fontaine and appear to be dealing above board. That was the problem.

Mr. Cloutier: Probably that is in your own mind, sir, about NODC because, to make a connection between me and NODC, your mind must have been in the gutter. For Christ's sake, you know better than that having been in the position you have been in.

I will read my oath to you.

Mr. Chairman: I am going to intervene here. I am getting increasingly uncomfortable. Mr. Pratte, I think you had better advise your witness what it means to be in contempt of the Legislature. When a member of this committee ask a question, I expect the witness to answer it. I do not expect another lecture and I do not expect another question. I expect an answer and that is what we will get.

Mr. Pratte: I have not heard a question from Mr. Sterling except for five minutes of speeches, Mr. Chairman.

Mr. Chairman: Then you had better listen a little more carefully, Mr. Pratte.

Mr. Pratte: I have listened very carefully, sir.

Mr. Cloutier: What is the question?

Mr. Sterling: My question is, do you not consider René Fontaine an owner of Hearst Forest Management Inc.?

Mr. Cloutier: Now you are asking me a technical question that goes to a blind trust and everything like that. I am not qualified to answer that. As I said before, I am not a lawyer. If it is placed in a blind trust, are you still an owner? I could not answer that, sir. I am sorry; I do not know.

Mr. Sterling: When you became an agent for Canada Trust--

Mr. Cloutier: Consultant.

Mr. Sterling: Consultant?

Mr. Cloutier: Yes.

Mr. Sterling: An adviser, I think.

Mr. Cloutier: There is a difference.

Mr. Sterling: Did they ask or instruct you or did you get instructions from your solicitor as to whether you should converse with Mr. Fontaine about business matters?

Mr. Cloutier: I offered to read you my oath of trust and everything that I am concerned with. If you want to listen, I am prepared to read it if the chair will accept that.

Mr. Sterling: My question is, were you advised what your duties were?

Mr. Cloutier: No, sir.

Mr. Sterling: All you did was sign the oath.

Mr. Cloutier: Which you have there. It refers to something else. That is why I said I should read the balance. It says to paragraph 8; do you have paragraph 8?

Mr. Sterling: Did anyone talk to you and say: "Mr. Cloutier, you should not discuss with Mr. Fontaine matters related to United Sawmill or Hearst Forest Management Inc.? Did anybody ever say that to you?

Mr. Cloutier: That was not my terms of reference.

Mr. Sterling: So you felt free to go and do that.

Mr. Cloutier: I want to read you my terms of reference if you will accept my reading them. You can ask me a dozen questions; they all refer to the terms of reference and I will read them if permitted.

Mr. Sterling: Read your terms of reference.

Mr. Cloutier: There is a designation. "Designation (R. F.)--René Fontaine--"to Canada Trust) Pursuant to paragraph 8 the trust indenture, I require that Canada Trust consult"--not advise--"Mr. Roland Cloutier...on investment, management and administration policies relating to the trust estate." That is a designation.

My oath: "Canada Trust (the trustee) has been directed by the Hon. René Fontaine (the settlor) to ask that I serve as a consultant pursuant to paragraph 8 of the above-captioned trust indenture.

"I agree to serve.

"I will not disclose to the settlor"--René Fontaine and also Mrs. Fontaine--"or anyone on his behalf any knowledge of the trust estate I acquire during such consultation." You have to remember that I have to be consulted.

Paragraph 8: "The settlor may at any time require the trustee to consult on investment, management or administration policies with any person or persons designated in writing by the settlor. Any such person before engaging in such consultation shall swear by affidavit that he will not disclose to the settlor or anyone on his behalf any knowledge of the trust estate he may



acquire during such consultation. The trustee shall give due and proper consideration to any advice or suggestion made by such person in respect of investment management or disposition of the trust estate, but the exercise of discretion by the trustee in control, management and disposition of the trust estate or any part thereof shall not in any manner or degree be deemed limited in the premises and the trustee shall not be liable for any loss resulting to the trust estate either by reason of accepting or declining such advice or suggestion."

Those were my terms of reference and I did more than that; I did not talk about his business.

Mr. Sterling: Do you believe those terms of reference exclude you from going to René Fontaine and talking about the terms of the forest management agreement?

Mr. Cloutier: I was never talking about the forest management agreement on behalf of René Fontaine. I was manager of United Sawmill--pardon me; that was by habit--of Hearst Forest Management, and it was my duty to try to negotiate third-party agreements with the parties where we had that directive and to try with everybody on the same terms to get this thing across because we had been told so many times that it would be ready for such a time and it was not coming forth, and I was making all kinds of efforts to get it forth.

I am not talking about the negotiations of terms and conditions because none of us was even familiar with this. We had a professional forester conducting those negotiations, and he was very well versed in forest management agreements. We were going along with his suggestions. The only involvement of Mr. Fontaine was after the meeting of the 22nd. This thing was falling apart. Mr. Warner cleared up a lot of it; I think he had very intelligent questions.

Mr. Sterling: You saw no problem in talking to Mr. Fontaine about terms and conditions of the forest management agreement dealing with a two-year come-in clause for Levesque Lumber.

Mr. Cloutier: You are putting words in my mouth. I never discussed terms and conditions with him.

Mr. Sterling: What do you call the two years? What are the two years dealing with Levesque?

15:50

Mr. Cloutier: There was only a suggestion for getting the signature, not the terms and conditions. When I talk terms it is: "How much money for roads? How much for this and how much for that." That is what terms mean to me.

Mr. Sterling: A term would not include the right of a third party to be involved in the agreement?

Mr. Cloutier: Repeat.

Mr. Sterling: A term of the agreement would not be that Levesque Lumber had the right to be within the agreement in two years?

Mr. Cloutier: No.

Mr. Sterling: That is not a term?

Mr. Cloutier: That is not in the FMA. That was a position taken by MNR. If he is in, okay; if he is not in, the FMA holders will be two parties. We prefer that he be in, but if he does not want to be in, that is his choice.

Mr. Sterling: Have you discussed with Mr. Fontaine any matters other than the Levesque entry regarding the FMA?

Mr. Cloutier: No.

Mr. Sterling: Do you feel constrained to talk to him about the FMA?

Mr. Cloutier: I do not feel constrained, because he was never involved. When we were talking about the FMA at the Hearst Forest Management office, he was not there. We were talking with the Levesque people at their shareholders' meeting; United Sawmill representatives, the general manager or the other shareholder who is active, and MNR or whoever it is.

Mr. Sterling: So you think you have done nothing wrong in talking to him on April 22, in conflict with your duties as an agent under that blind trust?

Mr. Cloutier: Definitely not. On top of that, as a citizen of Hearst for 58 years, I think I simply did my job. Besides, that is my job, Hearst Forest Management. I am not working for Lecours. I am not working for Levesque. I am not working for United. My heart and my job is at Hearst Forest Management, and I have to prove something. You work for eight months, you are paid and you do not show anything. People ask you what the hell is going on. Maybe I am not doing my job. I have to find answers.

Mr. Sterling: In my view, that is precisely why you should not have been an agent to that trust agreement.

Mr. Cloutier: That is your point of view, but it is not mine.

Mr. Villeneuve: Mr. Cloutier, you were general manager of United Sawmill. When did you retire from United Sawmill?

Mr. Cloutier: I turned in my resignation January 23.

Mr. Villeneuve: Nineteen eight-six?

Mr. Cloutier: Nineteen eighty-five. On September 1, 1985, a new manager came in. They kept me there for charity, I guess, until Christmas. I quit working at noon on the Friday before Christmas. At one o'clock I asked my wife, "What the hell am I going to do?"

Mr. Villeneuve: Obviously, you could have found things to do.

Mr. Sterling: She probably said that.

Mr. Villeneuve: I gather you were in the employ of United throughout the election campaign and after the election of May 2, 1985.

Mr. Cloutier: Yes.

Mr. Villeneuve: You were quite close to Mr. Fontaine, as you were to Mr. Gagné. I believe Mr. Gagné was an accountant there.



Mr. Cloutier: I will tell you something. I was not that close to Mr. Fontaine. Mr. Fontaine was going to run in the previous election, and he asked my opinion. I told him, "René, mind your own business and forget about everybody else's business." He never forgave me, because he felt he could have beaten Mr. Piché at that time. The second time around he did not consult me, and we did not talk that much.

Mr. Villeneuve: Mr. Gagné sat in the chair you sit in this afternoon, and he advised Mr. Fontaine that if it came to sitting in cabinet, obtaining an FMA or being able to maintain ownership of United Sawmill, if it came to a saw, he advised him to resign his seat in cabinet. You were not part of that advice being given?

Mr. Cloutier: I had nothing to do with that.

Mr. Villeneuve: Are you familiar--and you would be as the general manager of the Hearst FMA--with a problem of people trusting one another in that group? We heard of that this morning. Do you feel there is a problem in trust between the three partners?

Mr. Cloutier: Of mistrust, yes. That is one of the reasons for the meeting on April 22.

Mr. Villeneuve: It is one of your problems?

Mr. Cloutier: It was, yes.

Mr. Villeneuve: Do you feel it has been solved?

Mr. Cloutier: Outside of being with the Fontaine group for 20 years, with the different companies, I was with the Levesque group for 21 years prior to that. I have no grudge against Réal Levesque. He is a friend of mine. Lately we have this problem, which makes it a little bit harder, but we have been friends all along, the same as René.

If you want to come into a business as a partner with somebody, first you have to talk with him. You do not force your way into a private business. If you walk in with an already-prepared, unanimous shareholders' agreement, and for one and a half years you are playing behind the back of somebody--I read yesterday or the day before--when I saw the Baskerville report, my stomach turned over when I saw that Mr. Piché had even written to try to stop the FMA in Hearst. I was not aware of that. Obviously, that was the request of somebody else; I do not know.

In a small town, you know pretty well everything that is going on here and there, whether founded or unfounded. At the open house for this FMA, Mr. Levesque wrote a letter outlining very clearly his position that it was impossible to co-operate, it could not work with the three and they were in competition. The lumber business is not in competition as are two retail stores, one across the street from the other. It is not the same. There is a market for everybody and everybody sells. It is not that kind of competition. Nobody can make me believe that. I have been in it for more than 40 years. I know what it is all about too.

With all these things existing, you walk in all of a sudden, and with all due respect to your city lawyers, you walk in with a Toronto lawyer--normally we have a local lawyer--and say, "Here is the way I am going to join this company and here are my terms." You cannot expect things to go well. That



was the result. But I am saying to you now that a mellowing down has taken place. Two years has been accepted by Lecours and the shareholders of United Sawmill and the general manager, who is taking the responsibility. I am sure now that things can be worked out.

It is a two-way street. If everybody is going to be together, you have to trust each other and work together, not say one thing and do the other thing.

Mr. Villeneuve: In your opinion, what prompted the three competing companies to decide all of a sudden to have a harmonious marriage?

Mr. Cloutier: I do not say it is harmonious. It still says it is two years.

Mr. Villeneuve: During the campaigning leading up the May 2 election in Ontario, was Mr. Fontaine's platform possibly, "We are going to get an FMA for Hearst"?

Mr. Cloutier: Frankly, I cannot answer that, because I was not following his campaign.

Mr. Villeneuve: We are led to believe that was part of it.

Mr. Cloutier: I was not part of it. I have been involved in politics supporting local candidates for many years, but I have more or less retired from that. I was working there, but René Fontaine was a Liberal, and I was a Conservative. I am sure you have Liberal and Conservative friends, any of you. That is the way we had our arrangement. We did not always agree on certain things. It has been like that for a long time. After all I read in the newspapers and all the stuff I read, I do not know whether I can keep my sustaining member card. I am not only a member; I was a sustaining member.

Mr. Villeneuve: Are you familiar with the Ontario Lumber Manufacturers Association?

Mr. Cloutier: Yes.

Mr. Villeneuve: Are you aware that they advised Mr. Fontaine to be careful if he were to go into cabinet?

Mr. Cloutier: No. I was not there.

Mr. Villeneuve: You are not aware of that?

Mr. Cloutier: No. I was a founding member of the association, but I was not there when this happened.

Mr. Villeneuve: We were led to believe that Mr. Fontaine, even after his election and even after his entry into cabinet, led people to believe, "I am going to arrange for an FMA for the Hearst region or I will resign my seat."

16:00

Mr. Cloutier: It was not Mr. Fontaine who could arrange for an FMA; it was MNR. The process was already begun by Mr. Pope. I thought the coming of FMAs was the best thing that ever happened to sawmills. If you will permit me to elaborate, the independent sawmills were never recognized in this province

as viable entities. For years, they were just given a small block of timber and they had a hard time to survive. Pulp companies had been licensed for most of Ontario and had timber coming out their ears; they could not utilize it. But when you went over there and said, "I need timber for my mill; could I get some?" they would say, "Oh, we need all the timber we have."

When Mr. Pope introduced the FMAs, after five years they were obligated to declare a surplus or show why they were not going to use it, and then the minister could direct that surplus. Mr. Pope directed a licence for 24,000 cords to United Sawmill, and that is one of the new licences it was claimed were given to Mr. Fontaine since he became a minister. That was something out of the FMA.

That is only one way we could get some timber. Otherwise, we still would not have any timber, and it would be rotting and dying in the forest.

Mr. Martel: You should have torn up your Conservative card sooner.

Mr. Cloutier: I have not torn it. I have it here, and I was going to decide today what to do with it.

Mr. Martel: We will burn it.

Mr. Cloutier: Maybe what I will do, I will not ask for a receipt for my last donation.

Mr. Villeneuve: I am very glad to hear you agree that an FMA is a valuable entity.

Mr. Cloutier: For a small sawmill it is, such as us or the people I used to work with.

Mr. Villeneuve: We have been having problems having people agree with that, and I am very pleased to hear that you agree.

Mr. Cloutier: Yes, sir.

Mr. Villeneuve: In your opinion, without the FMA for your Hearst group, would it be possible for them to survive in the intermediate run, which is the five to 10 years, or would they possibly be having to shut down? In the short run, there is no problem.

Mr. Cloutier: I mentioned here that it would be very difficult without the FMA, because we have had a large infestation of spruce budworm south of the Hearst area, where Levesque is operating, and in the west end. That has probably killed 200,000 or 300,000 cords or more. We have been cutting so-called sawmill timber and stuff like this, and now the wood that is dead is like this. It is dead standing up, it is dry and it is only good for firewood.

That is a terrible loss, because in 1979 we were threatened with having the volume that was available at that time reduced, and it has not increased since then; they only added area to maintain what we had. With this situation, and if the budworm keeps damaging more timber, without the FMA, because the FMA area was added, I am sure you cannot sustain the level of allowable cut you have currently. That would mean a reduction for everybody.

Mr. Villeneuve: Knowing what you know now and from your experience

with having dealt with the FMA, in retrospect do you think the appointing of Mr. Fontaine as Minister of Northern Affairs and Mines was a good move in that respect?

Mr.-Cloutier: Certainly it was a good move, because Mr. Fontaine had very good ideas for the north. It is the Ministry of Natural Resources that should have taken its position and said: "This is it, boys. This is the way we are going to have this. You are going to have three companies and everybody is going to sign at the same time or you are not going to have one." Then Mr. Fontaine would never have been involved whatsoever, because I would never have called him.

Mr. Villeneuve: We understood from Mr. Therriault this morning that has been the stand of the Ministry of Natural Resources all along.

Mr. Cloutier: Then why did they not come around and say, "Okay, you guys, if you want your FMA, then sign, the three of you"? That is all. If that was the intention, all they had to do was put the FMA here; it would be signed.

Mr. Villeneuve: Thank you for now.

Mr. Treleaven: I have a couple of points. Your statement, at the bottom of the first paragraph on page 19, refers to the analysis of Mr. O'Connor's figures subsequently prepared by the Ministry of Natural Resources. I have not seen a copy of that, Mr. Chairman.

Mr. Chairman: All I can do is to give it to you. I cannot make you look at it.

Mr. Treleaven: Have we received that?

Mr. Cloutier: Your name, sir?

Mr. Treleaven: Treleaven; a country lawyer, not a big city lawyer.

Mr. Cloutier: I am glad to see that the government knows there are country lawyers available.

Mr. Treleaven: On page 22, where you refer to this meeting with Mr. Kerrio, the only function Mr. Fontaine had was to be there at the beginning, introduce the parties and then leave; that was it?

Mr. Cloutier: No. We had prepared a brief. I have to explain a little bit of background. In Hearst there are several mills. When there is a subject matter that affects all the mills, somebody has to be a spokesman; so we have what we call the Hearst Lumbermen's Association, of which I was president for 33 years. Any time a situation like this came about, usually I had the task, free of charge, of presenting a brief. I would come down and I would read it.

This time, although we were not in agreement with the FMA with Mr. Levesque, this was to be a joint undertaking; so we working on this, the three companies. We prepared a brief and we all came down here--not Mrs. Joanis--I, Roland Cloutier, representing United Sawmill, Réal Levesque representing his company, and Lecours Lumber Co. had two representatives. Mr. Fontaine introduced us, and I was to read the brief. Mr. Kerrio did not allow us to read the brief. He said: "Okay, we will read it. We will look at it." That is it. That is what went on for that meeting.



Mr. Treleaven: I have your affidavit and it refers to paragraph 8 of Mr. Fontaine's trust agreement. Previously in the affidavit, I believe it uses the word "consultant" only once, and then in paragraph 3 it says, "I will not disclose to the settlor or anyone on his behalf any knowledge of the trust estate I acquired during such consultation." I am taking it from what you have said that you interpret the words "such consultation" as any information you got from the trust company.

Mr. Cloutier: That is right.

Mr. Treleaven: That the word "consultation" does not mean while serving as consultant? In other words, you are restricting it very narrowly; you are saying, "I will not disclose to anybody knowledge I get from the trust company."

Mr. Cloutier: No. The way I interpret that is, let us assume that somehow the trust company felt there should be a disposal of the shares of Mr. Fontaine, because it was not Mr. Fontaine's company; he was merely a shareholder. Let us say they wanted something about the disposal. They would contact me, and I would in turn check into that and offer an opinion in that consultation. Then they decide what they want. That is the way I look at it.

Mr. Treleaven: You were interpreting this to mean that this did not refer to any information you got from here, from there and so on, as long as it did not come from the trust company; that this referred only to information you got from the trust company and dealt with the trust company?

Mr. Cloutier: That is what it says there, but I conducted myself as if it meant exactly what you are saying. However, when I was talking about the FMA--and I am not pointing at you; it is a just a mode of talking--I was manager of Hearst Forest Management Inc., and that was my job for everybody that was there. There was Levesque Plywood, Weldwood of Canada, I do not know how many meetings. We were discussing the FMA, and when I was talking about the FMA, United Sawmill was just like anybody else, because my connections had been severed there. They were severed, and I do not mean maybe.

Mr. Warner: Just one item to try to tidy up a couple of little details. You were manager at United Sawmill for a long time, 20 years or thereabouts, roughly?

Mr. Cloutier: Different companies before, but once the amalgamation was made in 1981, I stayed on as general manager.

16:10

Mr. Warner: Can you give me a general description of Mr. Fontaine's involvement with the company prior to his election to the Legislature in 1985?

Mr. Cloutier: Mr. Fontaine, prior to being elected, was always a politician. You know that. He was mayor of the town of Hearst for many years. I guess politics is his life, wherever he could get involved. His main function was to look after the sawmill. That was his job, his responsibility.

Mr. Warner: So he was more or less in charge of the sawmill until May 1985.

Mr. Cloutier: Until he quit to go into the campaign. I do not know the dates now.

Mr. Warner: Yes, some time in April, I guess. What happened after 1985? You were still there.

Mr. Cloutier: Yes.

Mr. Warner: Who was running the place?

Mr. Cloutier: I was, but there are different departments there: general administration, the sawmill and the logging end. There is another partner in the company and he is active, too. Mrs. Joanis is the president. She is active in the administration. The other partner was active in the logging, and I took over Mr. Fontaine's looking after the sawmill because I knew about that too.

Mr. Warner: Until you left, which was in December 1985 roughly or January 1986.

Mr. Cloutier: Yes. Really until September when the new general manager came in and took over. I just cleaned up my desk and that was it. It took a long time.

Mr. Warner: Your understanding was that when everything went into the blind trust, you would be consulted by--is it Canada Trust?

Mr. Cloutier: Yes.

Mr. Warner: You would be consulted by Canada Trust if they wanted your opinion, but they never contacted you.

Mr. Cloutier: No.

Mr. Warner: Not by phone, letter or anything? You did not hear from them?

Mr. Cloutier: I did hear from them. Exactly what happened is what I have said here, that they never consulted me. Twice I received--once, I guess in February or March--a copy of a bank account, just like you get. I received another one probably in July or August, but they have not consulted me for any of the terms of reference I received. That is all. For a while I thought this thing did not even exist because I did not hear from them.

Mr. Warner: If you were not being consulted, who was directing Mr. Fontaine's interests at the sawmill?

Mr. Cloutier: The other shareholders and the general manager. That is why they hired him.

Mr. Warner: The person who took your place.

Mr. Cloutier: Yes.

Mr. Warner: To your knowledge, that person was just trusted by Mr. Fontaine to run everything properly and keep everything in shape.

Mr. Cloutier: I would assume so, because they hired him. It is not a \$10,000 job either.

Mr. Warner: The reason I am a bit curious about it--and obviously I accept your word on it--is that in the agreement with the trust company in

paragraph 8 it says, "The settlor may at any time require the trustee"--in this case the trustee would be Canada Trust--"to consult on investment management or administration policies," etc.

Taking into account United Sawmill, I wonder who was running the store, assuming that Canada Trust, sitting, I presume, in Toronto, was probably not in the best position to advise on the running of an operation in Hearst.

Mr. Cloutier: That is right.

Mr. Warner: And you were the consultant but you were not consulted.

Mr. Cloutier: I was not consulted.

Mr. Warner: So who was helping out in this?

Mr. Cloutier: I heard they were not doing their job. I do not know. Whether Mr. Fontaine was there or was not there, that business could run just the same, because there are other capable people who are involved and who can take over. If somebody takes sick, that does not mean to say you are going to close a company down.

Mr. Chairman: Are there any other questions for the witness?

There being none, we thank you very much for attending this afternoon, Mr. Cloutier.

The committee has one other piece of business to concern itself with.

Mr. Cloutier: Mr. Chairman, I would ask one more thing.

Mr. Chairman: Certainly.

Mr. Cloutier: Normally, you do not pay for the time, but Hearst Forest Management is already \$100,000 in the hole. They are paying me too. It cost them two more days to come up here. I know you are going to pay my expenses, but--

Mr. Chairman: We will take that matter under consideration.

Mr. Warner: How much do you make in a day?

Mr. Cloutier: More than \$105. Mr. Sterling, are you satisfied now about the Northern Ontario Development Corp.?

Mr. Sterling: I always was.

Mr. Cloutier: I hope you are not going to say, "Is that the same Roland Cloutier who was appointed to NODC?"

Mr. Warner: He not going to rip up his cards.

Mr. Cloutier: Thank you, members of the government. I hope I have been of some assistance.

Mr. Chairman: Thank you. For members of the committee, to assist you in your deliberations, you have a rather unusual request in your hands from Mr. Pratte asking for an opportunity at the end of the process, in effect



after all witnesses have been heard, to appear before the committee. I want to direct your attention to a couple of things before you get under way with this.

Mr. Pratte is rather forthright in asserting that he wants to appear to reply to allegations that have been made since Mr. Fontaine appeared before the committee. To help you on this, we went through the precedents. Frankly, we had a bit of a problem because that particular request, as it turns out, has not really been made in quite those terms in any place we can find. When we looked for a precedent, we were unable to get one which was directly on it.

What we did find was that on one other occasion in the history of this assembly an attorney, namely, Arthur Maloney, in the hearing into the Kerr affair, if I might put it that way, was asked by the committee to provide what turned out to be a summation of evidence. He did so at the request of the committee, but he had made the initial request. He, in essence, summarized the information for it. He did not ask for the right to reply to allegations, nor did he provide--I suppose it is close to being a defence summation but it is not quite that.

The normal process that would be taken is if Mr. Fontaine himself wanted to appear before the committee, it would generally seem to be proper to provide him with that occasion, if the committee wanted to hear from him again, and it would call him as a witness. You could do that. If you chose to call Mr. Pratte as a witness you could do that, although I would remind you of the normal difficulties we have about solicitor-client relationships.

When we searched for the precedents on the matter, that is about it except for the report this committee did some time ago when dealing with the matter which began around the status of witnesses before a committee. We delved into the area of the role of independent counsel before committees.

The guidelines, as we laid them out then, generally have tended to be as we have operated during the course of this inquiry; that is, they make it clear that any witness before a committee has the right of counsel, a counsel can be present and can advise a witness. It was put in that report that counsels appearing in such a capacity before a committee would not enjoy the right of cross-examination. That was a right which was held to the committee alone and no other. They would not, in effect, introduce a great deal of evidence nor would they do summation of evidence either.

At that time, we did not preclude an expanded role for counsel. We did not say there would never be a circumstance where counsel could come before a committee and would not be given the right to cross-examine, sum up or introduce evidence. At that time, it was generally felt in committee that we did not know what circumstances would unfold in the future and there might come an occasion when it would seem appropriate for a legislative committee to actually unfold and use court procedure, or what would be tantamount to court procedures, of cross-examination, the right of evidence, and all of that stuff. We did not preclude that, but we did not provide for it either.

In summary, we looked for precedents and there are none. We looked for guidance in standing orders, in previous committee reports, and although there are some which are relevant, there is none which is directly on this particular request.

16:20

It is without precedent; it has not been done in quite this way. This is not to say that lawyers have not appeared before committees; they do quite a

bit, but we have not found a precedent where a counsel asked for the right to reply to matters that had been brought before a committee.

The normal process is that a member has that right. Mr. Fontaine is once again a member of the assembly. Should he wish to attend at this committee and say whatever he wants to say, he has a clear right to do that. The committee, in addition to that, would have every right in the world to recall him as a witness. In fact, in other cases of a similar nature that has usually been the way it wound up: On or near the end of the committee's deliberations, the member in question was invited to return, almost as if he were speaking to a point of privilege in the House. The last person heard would be the member who had been accused of something.

I can offer that as guidance for you in your deliberation. The question to be resolved is, how do you wish to reply to Mr. Pratt's letter?

I will leave it at that. I considered whether we could get on a little safer procedural ground, and the best I can do for you is to provide the closest precedents we could find, the occasions when committees of this House have done something similar. I cannot find for you a standing order that would cover it or anything from another jurisdiction that would cover it. It is a request that is essentially without precedent and the committee will have to make its own determination.

Mr.-Martel: I have read the letter over a couple of times pretty carefully. If Mr. Fontaine feels his reputation and integrity have been smeared, Mr. Fontaine should come back and point out where he feels this has occurred and where he differs with some of the statements that have been made. The member should be given every opportunity to make that clarification.

I do not want to hear from the lawyer. If I want to question him, he is going to make a statement I cannot question, because he is going to plead the fifth every time you want to talk to him. I might want an opportunity to know why, for example, the Mary Eberts letter of July 9 had no place or prominence in the statement prepared when Mr. Fontaine appeared here before, and I do not want a solicitor telling me, "I do not know why that was not there."

I want to give Mr. Fontaine every opportunity possible to clarify those things, but I do not want to muddy the waters any more by having somebody make up a summation for me that I do not have the right to delve into or such that, if I try to do so, he is going to say: "No, I cannot. That is my client-solicitor relationship." You will recall that we got into that over his little admission or statement about the discussion with the Attorney General (Mr. Scott), and when I questioned him, right away everybody jumped in and said: "That is not fair. It is a counsel-client relationship and you do not have a right to know whether he met with the Attorney General or not." I am not going to allow him to hide behind that sort of thing when we are simply trying to get at what occurred.

Therefore, I would move, so that we can discuss it, that Mr. Fontaine be invited back at his pleasure.

Mr. Chairman: All right. I was not really looking for motions; I was looking for some discussion.

Mr.-Martel: I can withdraw the motion.

Mr. Chairman: The way I would prefer to proceed is to have some initial discussion around it and then close out with someone presenting a motion. All right?



Mr. O'Connor: The difficulty we are facing, in part, is that whether we like it or not, and however we wish to characterize our proceedings this past summer, as a matter of fact, we have presumed to sit in the nature of a court to try issues, to hear witnesses, to determine the veracity of witnesses and ultimately to pass judgement on the truth or otherwise of the myriad of evidence that has been presented to us.

Because we have acted in this fashion--I think quite properly; that has been our mandate--and because we have therefore acted in the nature of a court, I believe what Mr. Pratte is trying to do is, in a certain way, to carry on that analogy and to exercise the usual right of someone who has appeared before a court. In this case, the equivalent to the accused in a regular court system is Mr. Fontaine. He wants to exercise the right to sum up to the jury, so to speak, his position at the end.

I have some sympathy for that; it is perhaps a valid request on his part. The difficulty comes in that, if we carry on the analogy, there should then be some opportunity for the other side equally to sum up and present the case against Mr. Fontaine. Who does that? We did not have counsel here for Mr. Brandt. Perhaps he is, in the analogy we have created, the accuser in this situation. Does it fall to one of us? Should we rely on the summary that has been prepared by legislative counsel?

I do not know. If we are going to go the one step, I think it should be properly done by the other side. Of course, we in this party anticipated that difficulty at the outset when suggesting counsel, which would have been the logical person to do it. However, that is not possible now, of course. I do not think, therefore, that granting this privilege to Mr. Pratte would be quite appropriate in the circumstances. Perhaps what we should be doing is something along the line Mr. Martel suggested, that Mr. Fontaine come back so he can be questioned to give his final summation of what we are going to do to him.

In any event, whatever we do, I suggest that what we do today is simply to discuss this so that we can think about it before deciding ultimately the outcome of this request.

Mr. Sterling: I would support a motion such as Mr. Martel has put forward. Unfortunately, I did get carried away one day in how I referred to Mr. Fontaine, and I am not proud of the words I used.

That said, the conflicts in testimony still remain, and therefore Mr. Fontaine should be given every opportunity to come in front of this committee and explain those conflicts--some very serious conflicts, in my view. I would like, if I am wrong, to be able to apologize face to face to René Fontaine.

Mr. Morin: I can hardly hear you.

Mr. Sterling: I would like to apologize face to face to René Fontaine if I am wrong.

Ms. Hart: It is a little late now after it has appeared in every newspaper.

Mr. Sterling: Some people provoked me to it that day, if you recall. At any rate, the only way to deal with it properly is to have Mr. Fontaine come here, because some of his words, or the words carried by a messenger, may not be entirely clear to the members of the committee. It will not contain all



of the questions we may have on the variances between what witnesses brought before this committee and his testimony. Therefore, the only real way to clear the air is to ask Mr. Fontaine whether he would like to appear.

Mr. Warner: It is not surprising to me that you could not find a precedent for the request. This Legislature has, for good reason, over the years resisted the temptation of allowing this to be a forum for prosecuting and defence attorneys. The ground rule that is normally set out in the Legislature is that it is an opportunity in this situation for a member of the assembly to be heard by his or her peers, to be asked whatever questions are relevant, to have whatever information is available taken and for an attempt to be made to come to a reasonable and fair judgement.

Aside from the merits of what Mr. Pratte would say on behalf of his client, it is not a proper way for us to proceed. I would be very disturbed if we adopted this practice in this case or any other case. It is not a proper way for the Legislature to proceed in trying to arrive at a conclusion.

There is also the fact that Mr. Fontaine is now again a member of the assembly and has every right to come to this committee or any other committee of the assembly. He has every right to come and sit in on a committee and to ask questions. My preference would be some very careful wording on a motion to allow Mr. Fontaine the opportunity to come before us. I do not think we should compel him to come forward or attempt to coerce him to come forward.

16:30

We are at the end of the hearings. We have heard all the witnesses, save and except Mr. Martin who apparently now wants to come to see us, and a lot of damaging evidence has been presented. It is not just a matter of accusations but also a matter of a lot of damaging material that has been presented. If Mr. Fontaine wishes to respond to that, he should be allowed that opportunity. In fact, whether we want to or not, he actually has an opportunity to participate in the committee.

I urge that we reject quite respectfully the request from Mr. Pratte and that in its place we invite Mr. Fontaine to come before the committee to respond to whatever he wishes to respond to.

Ms. Hart: I have some sympathy with the request made by Mr. Fontaine's lawyer. I am not entirely sure that I go along with it, but let me tell you why I have some sympathy for it. One of the members of this committee, the member for Carleton-Grenville (Mr. Sterling), has said publicly that Mr. Fontaine has lied in front of a legislative committee and this member is sitting along with the rest of us in judgement on Mr. Fontaine. I confess that if I were sitting in his chair, I would be a little reluctant to come back to the same committee too.

Having said that, I tend to agree with some of my colleagues that Mr. Fontaine is the best person to answer the questions, the old best-evidence rule that we have. Also, because his integrity has been put so viscerally in issue in the past couple of weeks, it seems to me there really is no other option but for the committee to ask him to come back and to reply to those very serious allegations against his reputation. While I understand this is the route Mr. Fontaine has chosen, to ask his lawyer to appear before the committee to answer the allegations, I would be open to the motion to have Mr. Fontaine come himself.

Mr. Warner: On a point of order, Mr. Chairman: I am a little concerned by the comment that was made. I think it should be kept very clear that there was no accusation by this committee. Any statements made by members of the assembly outside of the committee are entirely their personal responsibility.

Occasionally, it has been known that civil suits have arisen because of statements made by members outside the assembly or outside a committee. What is dealt with here in this committee is recorded in Hansard. Nowhere in Hansard will you find an accusation to which this letter refers. What you will find are statements that appeared in the press as a result of statements by a member or members of the committee outside the committee room. That is divorced entirely from the work of the committee. I think that should be kept in mind as we attempt to deliberate this.

Ms. Hart: Mr. Chairman, might I respond to that? I understand the allegations were made in the committee and withdrawn and then made outside. In my mind, it is analogous to the type of question Mr. Fontaine was asked when he appeared here the first time. He was asked a number of questions about newspaper articles--and I am sure you will remember and Hansard will bear me out--that were not statements made in this committee and yet those questions were permitted.

We are talking about a colleague who is an honourable member of this House. I do not think we can separate it just because it happened to be that the member walked outside the door to say the same thing he had been asked to withdraw in the committee. Surely, within the purview of the jurisdiction of this committee, we can deal with those statements.

Mr. Chairman: Let me try to assist you just a touch with this. I can control, and I try to, what happens in here. If you use unparliamentary language, I can ask you to withdraw it. On that occasion, the member did use unparliamentary language and the member did withdraw it. I have no control over what you do once you go outside that door. It is not part of the record of the proceedings here. Speakers and people who chair committees have that problem. It is tough enough to try to control parliamentarians in an organized setting. Once they go out the door and get unorganized, there is no hope of controlling them.

What you said was correct. A member said something in public that has been reported publicly. I cannot deny that but I cannot make it part of the proceedings here either. You can try to work that in. To use the example you used, when Mr. Fontaine was here he was questioned about reports that had been published in various newspapers about his activities. There is no way we can deny that. In the daily question period, very often people ask a question based on something that was in a newspaper in the morning. It is an impossible situation, but you cannot make that part of the proceedings. That is where you draw the line. I cannot conduct hearings here based on somebody's press release, but you can mention it in passing.

The witness who appeared in front of us today responded in part to some newspaper stories. I cannot stop a witness from doing that. That would be inhuman. We just could not do it. But I am not going to spend all day discussing what was in the Toronto Sun article this morning. If you want to try to work it in, there are some boundaries of debate within which the chairman has to give you some latitude. Otherwise, why would you be here? I would be controlling all the questioning.



All I am trying to tell you is that some lines eventually have to be drawn and the lines would be that when you get down to the deliberations, if you want to go and read all Norm Sterling's press releases over the summer, you are free to do so, but do not bring them in here and try to make them part of the proceedings because that will not fly. You can use to your little heart's content anything that was put on the record during the course of these hearings. Those are the facts and the opinions presented to this committee and you will have no trouble dealing with them. But if it says, "PC Top Story" or you are quoting from the Toronto Sun, you are in the swamp there. That is not very firm ground and I advise you to get off it in a hurry.

We all have to deal with hurt feelings and there will be some. We cannot escape the fact that we are dealing with something rather sensitive here, which, in the rest of the world's deliberations, might make no sense at all. I went through the George Kerr transcripts today over the noon hour. On the surface, a member of the assembly listened on the telephone to a problem of a constituent, picked up the telephone and made one call to a judge. I listen to problems of constituents every day and I make phone calls on their behalf every day, but the circumstances made that totally different. Our job is to make a judgement call on whether something untoward happened here and that is what we will be asked to do.

I sense that you are about ready for motions, or I did hear from one member that you would like some time to consider. Are you ready for Mr. Martel's motion?

Mr. Martel has moved that Mr. Fontaine be invited back to present his views on the allegations that he thinks are unwarranted. That is the motion. In essence, the motion is that Mr. Fontaine be provided with an opportunity to reply. Any discussion on that motion?

Mr. Treleaven: That does not include dealing with this letter?

Mr. Martel: Yes, it does.

Mr. Chairman: That will assist me in responding to the letter. Let me put it that way. Those in favour of the motion? Those opposed? I take it I will reply in the negative to Mr. Pratte. Is that right?

Before I do that, I had a question. The order of business for tomorrow is to hear Paul Martin at 10 o'clock. It appears to me that Tuesday, Wednesday and Thursday of next week will now be required to hear Mr. Fontaine and to finalize the report.

Mr. Morin: Mr. Fontaine will not be here next week. He will be away in Vancouver the whole week.

Mr. Chairman: This is obviously something you are going to have to think about overnight. The committee has decided now to provide him with the occasion. He may choose not to exercise his option. He may decide that business elsewhere is more important. I am at your pleasure.

Ms. Hart: That is not very fair.

Interjections.

Mr. Chairman: Hold on for a minute. You may want to decide tomorrow as with other witnesses where we have tried to schedule hearings on days when



it is at their convenience. You may try to do that. What I am going to tell you now is that this committee has the authority to sit next week. Then, as things now stand, we will not have authority to sit until the House resumes. That is a fact of life. If you want to bump it over into the following week, that means the process we will have to go through will be to get agreement from the House leaders to sit for additional hours. That will cause problems with other committees and you had better be prepared to deal with that. If you want to put a motion tomorrow that we meet at Mr. Fontaine's convenience in the following week, we will have to get concurrence from the House leaders to sit.

Mr. Warner: I did not realize that next week was the last week we had permission to sit.

Mr. Chairman: It is the last week we have to sit.

Mr. Warner: What about Bill 34?

Mr. Chairman: I am trying to tell you in a gentle way that Bill 34 is not going to be considered by this committee until after the House resumes. That is the reality.

Mr. Warner: Suppose Mr. Fontaine declines the invitation, so that we complete things tomorrow. Is it not possible--

Mr. Chairman: You can fantasize that we are going to hear a witness and finish our report tomorrow. It may happen. I do not know, but in my judgement that is a little unlikely.

Mr. O'Connor: We have next week.

Mr. Chairman: We have next week to sit, yes. We can sit five days next week if that is what you want.

Mr. Bossy: I believe I mentioned some time ago that there is a fairly major event taking place. In consideration of people who might be a little concerned about agriculture and the involvement we have in agriculture--

Mr. Chairman: I am aware of that.

Mr. Bossy: --on one day, and it is Tuesday, there is a fairly major event. The ploughing match has been announced for a considerable time. Perhaps there is some possibility of scheduling around that. I have to declare that I will be absent on Tuesday. I know we all have these problems, but I thought due consideration might have been given to that.

Mr. Chairman: We will give that due consideration. I am putting you on notice that tomorrow you will be asked to order the business for the following week. Be mindful that there are some problems. That is all I can tell you.

The committee adjourned at 4:43 p.m.

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

FRIDAY, SEPTEMBER 12, 1986

Morning Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

Witness:

From the Golden Tiger Mining Exploration Co. Ltd.:

Martin, P., President



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Friday, September 12, 1986

The committee met at 10:14 a.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We are ready to proceed. We have as a witness this morning Paul Martin, the president of Golden Tiger Mining.

Mr. Sterling: Yesterday, Mr. Therriault, the Hearst district manager for the Ministry of Natural Resources, indicated during his testimony that there were four meetings with Mr. Fontaine in 1986 dealing with the forest management agreement. You will recall that either last week or at some time the researchers from our caucus office who went through the documents given to this committee by the Ministry of Natural Resources in response to our request found minutes of two meetings, one in April and one in May.

You will recall that yesterday I asked Mr. Therriault whether he had included the two memos from the January 21 meeting and the March 25 meeting. He indicated to this committee that he had included both those memos of those meetings with Mr. Fontaine in the documentation supplied to this committee.

Subsequent to that, our researchers went back and looked again in the files for these memos. They did not find those memos. I asked the researcher who was working for this committee to go through the documents last night to find out whether the memos of these two meetings were in fact included in the documentation we have received in the committee. It appears those memos are not in the documentation, although Mr. Therriault gave them to somebody in the Ministry of Natural Resources to be included.

Mr. Chairman, I think you or the clerk should look into this matter to determine whether these documents were removed from the files and by whom and whether other documents were removed as well.

Mr. Chairman: I am aware that there seemed to be some conflict in Mr. Therriault's statements yesterday that he had included those particular notes in files and had forwarded them. To our knowledge, we did not have them in the package we received.

To assist me a little, there seems to be no question that there were four meetings as opposed to two. That is not in question. We would be trying to determine why those other two notations, of whatever sort they were, were not included. I think you are asking the question, "Did someone vet the files?" Is that right?

Mr. Sterling: That is right.

Mr. Chairman: Okay. Are we ready to proceed with the witness? The witness is Paul Martin of Golden Tiger Mines. Would Mr. Martin come forward? I will ask the clerk to swear him in.

Paul Martin sworn.

## PAUL MARTIN

Mr. Chairman: Mr. Martin, do you have a statement you want to make?

Mr. Martin: No. I will just answer your questions in truth.

Mr. Chairman: Are there questions from the committee? Nobody wants to start.

Mr. Martin: May I ask one question?

Mr. Chairman: Yes.

Mr. Martin: You people can call me a turkey and I cannot do anything about it. Can I call people "turkey" while I am sitting here and not be sued?

Mr. Chairman: Sure.

Mr. Martin: It takes one turkey to know another turkey.

Mr. O'Connor: Mr. Martin, do you want to start with me, or may I go ahead?

Mr. Martin: Go ahead.

Mr. Chairman: "Turkey" is okay; just be careful of the adjectives.

Mr. O'Connor: Mr. Martin, I understand you are currently, and have been for some time, president of Golden Tiger Exploration. Is that correct?

Mr. Martin: Right.

Mr. O'Connor: That is a company whose objects permit it to carry on mining exploration work and development in Ontario and in Quebec?

Mr. Martin: Anywhere in the world, if you want to look at it that way.

Mr. O'Connor: The company does in fact carry on business in Ontario. Is that correct?

Mr. Martin: We did until about the middle of January.

Mr. O'Connor: Of 1986?

Mr. Martin: Yes.

Mr. O'Connor: At which time the company held about 900 mining claims in Ontario. Is that right?

Mr. Martin: Yes; something like that.

Mr. O'Connor: What happened to them in January?

Mr. Martin: We had enough work done, between ourselves and Getty, to keep these claims in good standing.

Mr. O'Connor: Are the claims now in good standing?

Mr. Martin: Yes, they are in good standing.

Mr. O'Connor: Up until January you had been doing work on them. Is that correct?

Mr. Martin: Yes. We have not done any work since near the end of January.

Mr. O'Connor: Sufficient work, I take it, to allow you to qualify for grants and tax credits under the Ontario mineral exploration program.

Mr. Martin: Right. We have had OMEP grants going back to 1979.

Mr. O'Connor: Are you also a shareholder of the company?

Mr. Martin: Yes.

Mr. O'Connor: Can you advise us what percentage or approximately how many shares?

Mr. Martin: I am a large shareholder. Let us leave it at that.

Mr. O'Connor: Are you the largest shareholder?

Mr. Martin: I would say so.

Mr. O'Connor: Is René Fontaine also a shareholder?

Mr. Martin: Yes. He has some escrowed stock.

Mr. O'Connor: At present to the extent of some 17,000 escrowed shares.

Mr. Martin: Right.

Mr. O'Connor: We heard evidence that at one point he owned considerably more shares than that, either through himself, his wife or adult children.

Mr. Martin: He probably did. I do not know how many he owned.

Mr. O'Connor: You are not aware of his total holdings?

Mr. Martin: No. I knew he had some stock, but I do not know how many shares he had.

Mr. O'Connor: We understand he was also one of the initial investors in the company when it was first incorporated.

Mr. Martin: Right.

Mr. O'Connor: At that time he was one of the chief shareholders, one of the top four, five, seven or so. Is that not correct?

Mr. Martin: No. He was never that large.

10:20

Mr. O'Connor: Some figures that were shown to us enumerated some information and set out the names of the 50 or so initial investors and their shareholdings. His shareholdings would have ranked him about eighth by my calculation.



Mr. Callahan: There were 39 shareholders. I believe that is the number.

Mr. O'Connor: Thirty-nine? I am sorry. I said 50, but about 39.

Mr. Martin: You know more than I do because I forgot that. That was years ago.

Mr. O'Connor: That is not particularly relevant right now anyway.

Mr. Martin: We did three issues in the stock, and the issues were never sold in Ontario. You had to be a resident of Quebec to purchase the stock when we did the original issues.

Mr. O'Connor: How did Mr. Fontaine get some shares?

Mr. Martin: He had to buy them from the open market. When he did that, I have no idea. I have no clue.

Mr. O'Connor: What you are saying is he was not then--

Mr. Martin: He could not invest in the company when we did the underwriting because he was a resident of Ontario.

Mr. O'Connor: So the shares he did buy were--

Mr. Martin: On the open market.

Mr. O'Connor: He described his relationship with you as being one of long standing. You were friends from boyhood.

Mr. Martin: For 40 years.

Mr. O'Connor: I believe he said that when he initially got involved in the company, it was to assist you. As a favour, he was buying up stock to help the company along. Is that correct?

Mr. Martin: We think we have a mine, and he says that if we find something around here, it will be good for the country. We are not in there to get rich quick, because we have been doing this thing since 1978.

Mr. O'Connor: And you yourself are a resident of Quebec?

Mr. Martin: Right.

Mr. O'Connor: Do you own any land or holdings in Ontario, other than through Golden Tiger?

Mr. Martin: No.

Mr. O'Connor: Shortly after this matter came to light, it was reported in one of the Toronto papers that you had some discussions with Mr. Fontaine over the past year and a half or so. Is that correct?

Mr. Martin: Yes.

Mr. O'Connor: He also confirmed in his evidence to us that some meetings took place between you two after the election of May 1985 and prior to January, I believe.

Mr. Morin: Mr. Chairman, yesterday you corrected me because I referred to a newspaper article. He is doing exactly the same thing. Is it fair? Does your judgement apply only to me or to--

Mr. Chairman: I am going to let the question stand for a short time. I really wish you would not pursue it too much, but I would let it stand on the basis that it has been the subject of question period activities. It was part of the allegations that were put before the committee. I believe it is relevant to that extent.

I do not want to entertain a long series of questions on the matter, but it certainly was put to us that these matters had been raised during question period and so they are on the record here, and they have been put before us in terms of Mr. Brandt's appearance in front of the committee making the allegations.

However, I would confine it to this extent. The allegation put is that a minister of the crown discussed public policy with someone in the private sector who was in effect a business partner. As long as we put those parameters on the questioning, we would let it proceed to that extent.

Mr. O'Connor: If you wish, Mr. Chairman, I will not refer to newspaper articles or reports whatsoever. I will ask the questions directly.

Just one more background question, if I may. I take it you were aware that Mr. Fontaine had significant numbers of shares, other than his escrowed shares, in your company until December 1985. He testified that it was December 10 and December 11 when he sold off all the shares that he was then aware of. Is that correct?

Mr. Martin: Yes. I arranged for that transaction.

Mr. O'Connor: Between the May 2 election and December 1985, did you have any meetings with Mr. Fontaine?

Mr. Martin: I met him once at the Royal York Hotel when he gave a speech to the Canadian Institute of Mining and Metallurgy.

Mr. O'Connor: Did you have a discussion with him?

Mr. Martin: We talked about things in general.

Mr. O'Connor: What did you discuss?

Mr. Martin: Basically, the same as in Quebec, the tax shelter. I was telling him that they should get them in Ontario.

Mr. O'Connor: What specifically were you asking him to do?

Mr. Martin: I did not ask him to do anything. We just discussed that Ontario should come in with some type of tax shelter.

Mr. O'Connor: For mining companies?

Mr. Martin: Yes.

Mr. O'Connor: What was his response?

Mr. Martin: He said they were working towards something such as that in association with the Prospectors and Developers Association and a group of prospectors and miners. It was public knowledge. It was in the Miner every week.

Mr. O'Connor: Did you have any more meetings during the fall other than the one you have mentioned?

Mr. Martin: No. I saw him only the one time.

Mr. O'Connor: Did you have any meetings after December; this year, in other words?

Mr. Martin: I flew with him to Val d'Or. Mr. Pratte would have the answer.

Mr. Pratte: I cannot speak.

Mr. Martin: In April.

Mr. O'Connor: You met with him in April in Val d'Or?

Mr. Martin: No. I flew with him. I think he mentioned that.

Mr. O'Connor: You had some time in an aircraft then?

Mr. Martin: Yes. He was going to meet the minister responsible for mines in Quebec. They were giving a speech. Basically, they were talking about the tax shelters. That is what the whole speech was all about.

Mr. O'Connor: What was the nature of the conversation during that meeting?

Mr. Martin: Usually the same thing, the tax shelters; to come in with some tax shelters.

Mr. O'Connor: Was there a third meeting with him? I believe Mr. Fontaine--

Mr. Martin: I saw him at the prospectors' convention, and so did a lot of other people.

Mr. O'Connor: He mentioned that too. Did you have a chance to talk to him privately there?

Mr. Martin: No, because you could not. There was practically no way to talk to him privately; the room was always full.

Mr. O'Connor: During any of those three meetings, did you discuss specifically his holdings in Golden Tiger and its prospects?

Mr. Martin: No, I did not.

Mr. O'Connor: There were no meetings other than those three?

Mr. Martin: Not that I can recall.

Mr. O'Connor: Did you have any telephone conversations with him?



Mr. Martin: Yes, we spoke.

Mr. O'Connor: Up until, let us say, the end of last year?

Mr. Martin: Probably a few times; maybe three or four times.

Mr. O'Connor: How many and when?

Mr. Martin: I called him from Montreal perhaps three or four times.

Mr. O'Connor: In the fall of 1985?

Mr. Martin: Between May and the end of December.

Mr. O'Connor: What was the nature of the discussions in those telephone calls?

Mr. Martin: I was talking about his wife, his kids and my problems. Apparently, I am an alcoholic, a drunk; so we discussed mostly my problems.

Mr. O'Connor: Did you discuss Golden Tiger at all?

Mr. Martin: Not in particular.

Mr. O'Connor: In general?

Mr. Martin: I would say so, in general terms.

Mr. O'Connor: What was the nature of that conversation?

Mr. Martin: Just to tell him that I was doing a major underwriting and that I was planning a big work program in Quebec.

Mr. O'Connor: You told him you were doing an underwriting.

Mr. Martin: I did not have to tell him; it was in the papers.

Mr. O'Connor: Was that the \$1.4-million underwriting about which we have heard?

Mr. Martin: Right.

Mr. O'Connor: When were those shares sold and when did the money come into the company?

Mr. Martin: Around November 10.

Mr. O'Connor: You had a telephone conversation about that with him.

Mr. Martin: We had to, because when we started the underwriting he was not a minister. I told him we were preparing an underwriting, and then we had it advertised in the papers. It was in the Globe and Mail. It was in practically every newspaper.

Mr. O'Connor: If it is in the papers, it is public knowledge. He would already know about it.

Mr. Martin: Yes.

Mr. O'Connor: Why would you have a discussion with him then? What would you discuss further with him than was already public knowledge?

Mr. Martin: Probably to tell him we had raised the money.

Mr. O'Connor: What was his response?

Mr. Martin: "Good for you. I am glad you got some money."

Mr. O'Connor: Was there any discussion as to the effect that underwriting might have on the value of the shares?

Mr. Martin: If you do an underwriting, normally your stock will go up afterwards. That is just normal.

Mr. O'Connor: In fact, the stock did go up.

Mr. Martin: Yes, it did.

Mr. O'Connor: It approximately doubled in value from June to December.

Mr. Martin: It doubled in value in three days.

Mr. O'Connor: How long?

Mr. Martin: Three days.

Mr. O'Connor: After the underwriting?

Mr. Martin: Yes.

Mr. Morin: In June 1985.

Mr. Martin: In December.

Mr. O'Connor: You said the underwriting was November 10.

Mr. Martin: Roughly November 10.

Mr. O'Connor: The doubling in value would be shortly after that, in the middle of November.

Mr. Martin: I think the whole thing happened before December 5, if I remember it. It went from 50 cents to \$1.08. It takes a good promoter to do that.

Mr. O'Connor: That is you.

Mr. Martin: Right. You should buy some stock. It is low. It is 30 cents right now.

Mr. O'Connor: Yes. I was going to say, after that it began to fall back. Is that right?

Mr. Martin: Yes. There was a sort of association with a stock I owned called Golden Group that actually went from 30 cents to \$10.78. We had a property close to Golden Group. That was in Quebec. When Golden Group collapsed, ours collapsed along with it. What could I do?

Mr. O'Connor: You had no shares in Golden Group.

Mr. Martin: Yes. I had stock at 30 cents.

Mr. O'Connor: Did René have some too?

Mr. Martin: No. I do not think so.

Mr. O'Connor: All right. Back to the telephone conversations. You indicated--

Mr. Morin: Are you trying to get a lead to buy stocks? Is that what you are trying to do?

Mr. O'Connor: Yes, sure. Golden group sounds like the place to be.

You said there were three or four telephone conversations, and one of the subjects of discussion was the underwriting. What else would you have discussed with him?

10:30

Mr. Martin: I probably told him I was going to do drilling programs in Quebec, because the whole underwriting was done to spend money in Quebec. The only reason we spent some money in Ontario was that we had a little bit of money left over.

Mr. O'Connor: Did you discuss with him the problem he subsequently got into, that is, that he was holding shares in a mining company and, because he was a minister, he had to sell them?

Mr. Martin: Yes, and he told me had to sell them before the end of December.

Mr. O'Connor: What did you say to that?

Mr. Martin: I said, "Whenever you feel." One thing I think he mentioned was that he was trying to get hold of Bob Carrier, the broker. You need to be a magician to speak to Carrier because he is so busy. So when René said he had a hard time getting hold of Carrier, that was the truth, because Carrier does all my underwriting and sometimes I have to wait a week to speak to him.

René could not sell the stock, so we tried to arrange a sale of stock, because you do not dump a large block of stock in the market.

Mr. O'Connor: Were you not in fact urging him to sell and as quickly as possible?

Mr. Martin: Maybe not quite that way, but he told me he had until the end of December.

Mr. Morin: Mr. O'Connor, may I interrupt with a supplementary just to make sure? What was the date when the underwriting was started? Do you know the exact date?

Mr. Martin: We started it in February.



Mr. Morin: February 1985?

Mr. Martin: Yes.

Mr. Morin: Then the stock doubled between the period from November to December?

Mr. Martin: Yes. I would say in late November.

Mr. Morin: The shares were issued at par?

Mr. Martin: At 50 cents.

Mr. Morin: At 50 cents. But the fluctuation upward took place between November and December.

Mr. Martin: Right.

Mr. Morin: Okay, but in February it was at 50 cents. Was there any movement in the stocks between February and November?

Mr. Martin: Not really.

Mr. Morin: Not at all? It was staying between 50 cents and 60 cents?

Mr. Martin: I think it sold as low as 30 cents and probably at 65 or 70 cents.

Mr. Morin: Thank you.

Mr. Martin: By the way, I know you.

Mr. Morin: Thank you.

M. Martin: Comment vous appelez-vous?

M. Morin: Gilles Morin.

M. Martin: Vous restiez à Rouyn?

M. Morin: C'est ça. I come from a mining town.

Mr. Callahan: Watch it. Sterling will have some questions.

Mr. Morin: Maybe I will be a witness.

Mr. Martin: You were at Ottawa. You were with René and me?

Mr. Morin: No, not at that time.

Mr. Martin: I am just breaking the ice here.

Mr. O'Connor: What was René's attitude upon your advising him he should sell the shares? Was he agreeable to that or was he reluctant?

Mr. Martin: He was reluctant because he was going to suffer a fairly good loss.

Mr. O'Connor: He knew the shares were going to go up in value because of the underwriting.

Mr. Martin: He did not know. Nobody knew that.

Mr. O'Connor: You just told me that one of the inevitable results of an underwriting is an increase in the value of the shares.

Mr. Martin: Right.

Mr. O'Connor: You knew you were doing the underwriting.

Mr. Martin: Yes, but you do not know whether the stock is going to go to 60 cents or \$1. You do not know that.

Mr. O'Connor: Yes, but you know that after the underwriting in November it is going to jump--

Mr. Martin: Normally, it should.

Mr. O'Connor: --and that it would be a good idea, if you hold a block of shares, to hang on to them until after the underwriting.

Mr. Martin: I do not think that came into play. He told me he had until the end of December, and I said, "Between now and the end of December, we will figure out a way to dispose of the block of stock."

Mr. O'Connor: Do you remember giving an interview to a reporter for one of the Toronto papers?

Mr. Martin: Right.

Mr. O'Connor: Do you remember making statements around questions asked of you about this subject?

Mr. Martin: Yes.

Mr. O'Connor: I have heard a transcript of that interview, and if I may, Mr. Chairman, I want to read about four questions to Mr. Martin and ask him to confirm whether he answered them in the way I transcribed them, if I may be permitted to do that. If not, the alternative is to call the reporter.

Mr. Chairman: The alternative is to put a motion to the committee to call the reporter in. I told you before that I am unhappy with putting something on the record that we cannot verify.

Mr. O'Connor: That is what I am asking the witness to do.

Mr. Chairman: If the committee is in agreement, I will allow the questions to be put, provided they are succinct. In other words, we have fished a lot over the summer, and I am not prepared to listen to another long fishing expedition this morning. If you have four or five direct questions you want to put to the witness, I am prepared to allow that, and only on the grounds that these allegations have been part of the record in question period and have been raised during the course of the proceedings here. If it becomes a long, detailed examination of what he said to a reporter, I do not think that is relevant.

The basic allegation that a minister consulted with someone in the private sector in a business in which the minister was personally involved is a matter of public record, and to that extent we can hear some brief questioning along those lines. If it gets longer than that, I put to the committee that the alternative is to decide whether the conversation with the reporter is relevant enough to call the reporter in front of the committee. I hope you are aware that involves some complications.

What I am saying is, if we can do this succinctly and keep it relevant to the allegations that have been made, I will allow it to proceed. If there are big objections, let me hear them.

Mr. Callahan: As a matter of fairness, Mr. O'Connor should give each member of the committee and also the witness a copy of that report he is referring to before he starts asking any questions. In addition to that, the difficulty I have with this is that, without maligning the press at all, the circumstances under which a person perhaps is asked questions may not all be recorded in the particular statement. It may be a brief synopsis of what was said, and that is why I want to see the copy of the statement.

Mr. Chairman: Could I see it?

It appears to me that the questions are relatively succinct. If there is not a lot of editorial comment--

Mr. Callahan: I would like to see it. I do not know whether you are going to vote on this or how you are going to do it.

Mr. Chairman: No, we are not going to vote on it. I indicated I will allow the questions to proceed, provided they are succinct. If we get into trouble, I may have to make a ruling, but technically, I have to hear the questions before I can give you a ruling on it.

Mr. Callahan: I want to see it. As we all know from having been interviewed, the press has only so much space to put things into, and sometimes unless the question and answer is very definitive-- I want to make certain all the questions and all the answers are there. It may be very necessary to have the reporter called to give the circumstances under which the interview was given and whether everything is recorded in that press report.

Interjections.

Mr. Chairman: I hear some gentle rumblings.

Mr. O'Connor: I advise my friend that this is an excerpt from a rather long, far-ranging interview, which was taped. I have heard the tape and compared it with the three questions I want to read into the record and the answers Mr. Martin allegedly gave. If he denies he gave those answers, then fine, I have to stop and we have to prove them some other way. If he admits those are the answers he gave, I think I can then ask him questions on those questions.

Mr. Callahan: Perhaps a resolution is that, rather than calling the reporter, if the tape is available, if it becomes necessary, I suggest that tape be played. I am not questioning Mr. O'Connor's integrity, but I think it is important that this committee hear that entire tape.



Mr. Chairman: It may be.

Mr. Martel: Do we have too many lawyers here today?

Mr. Chairman: I am going to let Mr. O'Connor proceed with his questions. If I sense that we need to expand it, we will.

Mr. O'Connor: First, my information is that the interview was done with you by telephone by a reporter named Ciaran Ganley, who works for the Toronto Sun. Do you recall giving that interview on, I believe, June 25, 1986?

Mr. Martin: The Toronto Sun?

Mr. O'Connor: Do you recall that?

Mr. Martin: I spoke to somebody at the Globe and Mail, but I cannot remember talking to the Sun.

Mr. Callahan: Mr. Chairman, are we proceeding before we have the copies before the witness?

Mr. Chairman: What is the problem, Mr. Callahan?

Mr. Callahan: Mr. Chairman, I challenge that. It is not fair to ask a witness questions--

Mr. Chairman: Are you challenging the ruling of the chair?

Mr. Callahan: Yes, I am.

Mr. Chairman: We have a challenge to the ruling of the chair. I need a motion to uphold it.

Mr. Warner: Every time a cowboy comes to town--

Mr. Chairman: Mr. Sterling has moved. Those in favour of the chair's ruling? Those opposed? The ruling stands.

Mr. O'Connor: The questions I am suggesting were put to you and the answers you made are as follows:

Question by Mr. Ganley: "But he was a cabinet minister late last year when these other stocks were sold through a broker"--he meaning Mr. Fontaine.

Your answer was, "Yeah, but he did it inside the deadline."

Mr. Ganley said, "Right."

You said: "I forced him to sell it. He didn't want to."

Question: "How come?"

Answer: "Well, he figured it was going to go a lot higher. I said: 'René, you're a minister. You have to sell it.' I arranged a private sale for him, which went through the broker. I think he made a few dollars profit, but not very much."

Mr. Martin: I think that was the Globe and Mail.

Mr. O'Connor: All right. Whatever paper it was, do you recall being asked those questions by a reporter and making those answers?

Mr. Martin: Probably, yeah.

Mr. O'Connor: Probably, yeah?

Mr. Martin: I think so.

Mr. O'Connor: Okay. Having agreed that you said those things, can you tell us what you meant by, "I forced him to sell it. He didn't want to"?

Mr. Martin: Well, he was a loser. He had paid as much as \$1.25 for some stock, and the stock was around 96 cents.

Mr. O'Connor: Not at this time. It was around 40 cents in June. We are talking about June when--

Mr. Martin: In June?

Mr. O'Connor: I am sorry. From the time he was elected until November of last year, the stock was between 30 and 40 cents. Is that correct?

Mr. Martin: Yes.

Mr. O'Connor: Perhaps as high as 50 cents. November 10 came along and the underwriting you have spoken of with the knowledge that you and he had that it was going to go higher after November. Is that correct?

Mr. Martin: Yes.

Mr. O'Connor: In fact, it did. In December, when he sold the shares, he sold them at a range of 90 cents to \$1.04.

Mr. Martin: No, 97 cents.

Mr. O'Connor: Was it 97 cents? That is within the range.

Mr. Martin: That was one trade.

Mr. O'Connor: One trade, 97 cents, but what did you mean by, "I forced him to sell it. He didn't want to"?

Mr. Martin: I do not know, I cannot exactly remember, but if you are buying stock and you have paid as much \$1.25, you sure do not want to sell it at 40 or 50 cents.

Mr. O'Connor: He wanted to hang on to it?

Mr. Martin: He told me his deadline would be the end of December.

Mr. O'Connor: But for that deadline, he wanted to hold on to it. Is that correct?

Mr. Martin: I really cannot recall.

Mr. O'Connor: Perhaps the last answer will help you. You said: "well, he figured it was going to go a lot higher. I said: 'René, you're a minister. You have to sell it.'"

What I am getting at is whether there was resistance on his part. Was there some argument he was making that he was going to hang on to the shares because they were going to go a lot higher?

Mr. Martin: No. He was just trying to get even; not lose too much money. Let us put it that way.

Mr. Morin: Can I make a supplementary to your question, Terry, which might help you?

You said a minute ago that he was a loser in the sense that the overall picture of his portfolio is not good at all. In other words, if he made the profit between November and December on a certain number of shares that he sold, it might look good for that period for a certain number of shares; but when you look at the overall picture, which is what you must do each time you have a portfolio of shares, it is not what you sell immediately, but the commission you have to calculate, and you also have to include the price you paid for your shares.

If you sell them back, the overall picture brings you a profit and you are a winner; but if you only sell part of them, even though you make a profit, you can still be a loser in the overall picture. Is that what you meant?

Mr. Martin: Yes.

Mr. Treleaven: I do not follow.

Mr. Morin: You are trying to say he made a profit that took a greater jump on the market, which was on the upswing, but you are not looking at the overall picture.

Mr. O'Connor: Is it fair to infer from the two statements you made to that reporter, which you have confirmed you made--"I forced him to sell. He didn't want to." and "Well, he figured it was going to go a lot higher. I said: 'René, you're a minister. You have to sell it.'--that there was some resistance on the part of Mr. Fontaine, and that, but for you, Mr. Martin, his friend, urging him to do so, he would have held on to the shares?

Mr. Martin: I think he would have sold them before the deadline, but I did not want him to hit the market with them. We had to find a buyer.

Mr. O'Connor: I see. You found a private buyer?

Mr. Martin: No. It was done through brokers.

Mr. O'Connor: But you said, "I arranged a private sale for him, which went through the broker."

Mr. Martin: Before trading, he had a big short position which he wanted to cover.

Mr. O'Connor: You found this fellow for him with the short position?



Mr. Martin: Yes. I can usually find buyers. You just do not walk into a small company such as ours with--what did he have? 45,000 shares or something--and say, "Sell it at market."

Mr. O'Connor: That would depress the value of the shares?

Mr. Martin: It would knock it down.

Mr. O'Connor: How many times did you discuss with him this problem about when he would sell and how much he would get for his shares?

Mr. Martin: Once or twice.

Mr. O'Connor: Over the fall?

Mr. Martin: Yes. Probably around the underwriting time.

Mr. O'Connor: How many times would you have discussed with him this problem about when and how much you would get for the shares?

Mr. Martin: Once or twice.

Mr. O'Connor: Over the fall?

Mr. Martin: Yes; probably around the underwriting time.

Mr. O'Connor: Around the underwriting time in November. Would there have been discussions earlier than that about the underwriting or the value of the shares?

Mr. Martin: I think he called me when he got elected. If I remember right, I spoke to him that one time and I said the underwriting was proceeding ahead. That is as far as we went. It did not go any further than that.

Mr. O'Connor: After he got elected?

Mr. Martin: Yes.

Mr. O'Connor: Were there any other discussions about the underwriting?

Mr. Martin: No, because René was out of it by that time. He had sent in his letter of resignation on June 23, if I remember, and as far as I was concerned, he was no longer associated with the company.

Mr. O'Connor: Except that he was a major shareholder.

Mr. Martin: He was a large shareholder but not a major shareholder.

Mr. O'Connor: Back to the underwriting again. Can you tell us a little bit about the procedure involved in going ahead with an underwriting? I take it that there is a lot of paperwork involved. There is notice that has to be sent to all the shareholders.

Mr. Martin: No.

Mr. O'Connor: There is not? Is there a prospectus then to them, to give them a first shot at the shares?

Mr. Martin: No. The prospectus is sent to the people who want to buy the new shares.

Mr. O'Connor: Was the prospectus sent to Mr. Fontaine?

Mr. Martin: No, because he could not buy it; he was a resident of Ontario.

Mr. O'Connor: When would the prospectus have been sent out?

Mr. Martin: Around the middle of October.

Mr. O'Connor: Of 1984 that would be.

Mr. Martin: No, 1985.

Mr. O'Connor: Just a month before the--

Mr. Martin: Yes. You could only sell to residents of Quebec.

Mr. O'Connor: That is, Treasury shares.

Mr. Martin: The new Treasury shares coming out.

Mr. O'Connor: Residents of Ontario could buy them on the market, of course.

Mr. Martin: They could buy it in the open market.

Mr. O'Connor: In the course of an underwriting, as I understand it, it is an activity which will significantly change the financial status of the company.

Mr. Martin: It helps the company.

Mr. O'Connor: Is there not a meeting of directors held, a meeting of shareholders to approve that kind of activity?

Mr. Martin: Yes. The directors usually meet.

Mr. O'Connor: What about the shareholders? Do they have to approve?

Mr. Martin: They have no say in that.

Mr. O'Connor: They do not. In this case, it was done entirely by the directors.

Mr. Martin: The directors and the broker and the lawyers.

Mr. O'Connor: And no information, no notice of what is going on is sent to the shareholders?

Mr. Martin: No; just the quarterly reports and that is it.

Mr. O'Connor: Quarterly reports? What are the four quarters for your company? What are the months in which you have the four quarters?

Mr. Martin: September 30, December, March--

Mr. O'Connor: And June. It is the calendar year?

Mr. Martin: Yes.

Mr. O'Connor: And all the shareholders are sent a quarterly report?

Mr. Martin: Right.

Mr. O'Connor: The quarterly report in June, I take it, would then talk about the underwriting coming up in the fall.

Mr. Martin: Yes. Probably we would mention that there is an underwriting on the way.

Mr. O'Connor: Similarly, the September 30 quarterly report would have information--

Mr. Martin: The quarterly reports are issued quite a bit after the period.

Mr. O'Connor: When would the June quarterly report be issued?

Mr. Martin: It would have gone out some time in August.

Mr. O'Connor: In the mail.

Mr. Martin: Yes; maybe the end of August.

Mr. O'Connor: And the September some time in October? November?

Mr. Martin: Late November, because we are usually just about at the deadline.

Mr. O'Connor: It would be the June one that was received in August that would have spoken of and mentioned the underwriting?

Mr. Martin: I cannot remember whether we put a notice in there that an underwriting was on the way.

Mr. O'Connor: Do you have a copy of that?

Mr. Martin: The quarterly report? I think so, if you want one. I think we mentioned in the annual report that we were planning to raise more funds.

Mr. O'Connor: When was the annual report published?

Mr. Martin: I think it went out in the mail--we had the annual meeting in March, so I would say February some time, late February.

Mr. O'Connor: What would the extent of the detail be as to what you were going to raise? Would the amount of \$1.4 million--

Mr. Martin: No. We did not know. That did not come into play until much later.

Mr. O'Connor: So just the fact that there was going to be an underwriting this year to raise more money would be mentioned?



Mr. Martin: Yes.

Mr. O'Connor: In any event, you said it was in the Northern Miner?

Mr. Martin: Yes, in the newspapers. We put ads in everything.

Mr. O'Connor: General newspapers in the industry?

Mr. Martin: Right.

Mr. O'Connor: Of course, you had a couple of conversations with René about the underwriting.

Mr. Martin: I would think so, yes. He was a director up to June 26.

Mr. O'Connor: Did you receive a copy of his resignation as a director?

Mr. Martin: Right.

10:50

Mr. O'Connor: When did you receive that?

Mr. Martin: In June some time; late June, if I remember.

Mr. O'Connor: What procedure do you follow when you receive a resignation?

Mr. Martin: We just put it in the minute book.

Mr. O'Connor: Put it where?

Mr. Martin: In the minute book. Then we advise the Quebec Securities Commission and the Montreal Stock Exchange that he is no longer a director.

Mr. O'Connor: When did you do that?

Mr. Martin: Just after we got his letter. We sent a copy of his letter to the exchange and to the commission.

Mr. O'Connor: Okay. I have one other area I would like to explore but perhaps I can turn it over to somebody else now and come back to it.

Mr. Chairman: Do any other members have questions of Mr. Martin?

Mr. Treleaven: I want to explore the \$1.4-million underwriting of these shares. First, the new shares were the same class as the old shares.

Mr. Martin: Yes.

Mr. Treleaven: The old shareholders had neither notice nor anything such as voting rights to say whether new shares would be floated. Correct?

Mr. Martin: They have no rights.

Mr. Treleaven: Was there any particular reason you did this underwriting?

Mr. Martin: We needed money.

Mr. Treleaven: For what purpose? Any particular purpose?

Mr. Martin: Yes. It is all in the prospectus. All the money was to be spent in Quebec.

Mr. Treleaven: At this point, when that prospectus was put out, you had applications in for Ontario mineral exploration program grants.

Mr. Martin: Right.

Mr. Treleaven: Was it not correct that for the OMEP grants, one of the conditions was that you raise more money?

Mr. Martin: Right. That is why we send them a copy of our annual report.

Mr. Treleaven: So one of the reasons you went for the \$1.4-million underwriting was to qualify for the OMEP grants from the Ontario government.

Mr. Martin: We had some money left over. The prospectus was specifically for Quebec. We happened to have some money left over so we said we had better put it in OMEP grants.

Mr. Treleaven: So with the money left over, you then did work in Ontario and therefore qualified for the OMEP grants.

Mr. Martin: Right.

Mr. Warner: Mr. Martin, in an earlier question raised by Mr. O'Connor related to the newspaper interview, the quote, "When you are a minister, you have to sell it" was used, referring to the shares. At any time, did Mr. Fontaine mention to you that he would have to sell his shares?

Mr. Martin: I would say so. He told me he had until the end of December.

Mr. Warner: He had to sell them, but he had until the end of December to do so.

Mr. Martin: Right.

Mr. Warner: Do you recall whether he mentioned to you having received a letter from anyone in the Premier's office or anyone related to the government with respect to his shares?

Mr. Martin: No.

Mr. Warner: He did not mention anything?

Mr. Martin: No. That came up when the reporter called me.

Mr. Warner: As do other members, I want to make sure I have the dates in sequence. You mentioned to Mr. Fontaine in June 1985 that you would be in the process of underwriting the shares.

Mr. Martin: That started when he was a director of the company.

Mr. Warner: Oh, I see. Okay. You reminded him in June that the process was under way.

Mr. Martin: Yes.

Mr. Warner: Okay, so that is in June. In July, he receives a letter from Mary Eberts, which you had no knowledge of, mentioning that he should sell the shares or put them in a blind trust; the shares double somewhere around November to December and then finally he sells those shares in December as he was requested to do. Is that the sequence?

Mr. Martin: Yes. That is the way it happened.

Mr. Warner: So he has knowledge that the shares will be underwritten and the natural expectation is that the value will increase. They do, in fact, double and then he sells them, although he had been informed very explicitly in July that he should sell them. Although no particular date was mentioned in the letter from Mary Eberts, René said to you that he would have to sell them by the end of December.

Mr. Martin: If I remember correctly, yes, that is what he said.

Mr. Warner: Would you think he held on to them as long as he possibly could to maximize the profit from them?

Mr. Martin: Not the profit--to minimize his loss. Let us get that straight.

Mr. Warner: All right. I want to keep it straight. Could you kindly take me through that one--minimize his loss?

Mr. Martin: He had paid as much as \$1.25 for stock. That I know.

Mr. Warner: And they had then fallen.

Mr. Martin: Oh, yes. They went all the way back down to 30 cents.

Mr. Warner: And then they ended up at 97 cents.

Mr. Martin: At \$1.08, but he got out at 97 cents.

Mr. Warner: He got out at 97 cents.

Mr. Martin: On the way down. It was starting to come back down.

Mr. Warner: That is fine. Thank you.

Mr. Chairman: Are there any other questions?

Mr. Callahan: Mr. Martin, you raised the issue yourself so I am going to ask you about it. I gather Mr. Fontaine was very concerned about your problem with alcohol.

Mr. Martin: That is my own personal business.

Mr. Callahan: No, but I am just interested--

Mr. Chairman: Mr. Callahan, I do not want to conclude this and I do



not want to cut off questions, but before you start, I remind you that the witness is here to provide us with testimony about the allegations that have been made. Let us leave it at that. Ask any question you would like, but there is a little test of relevancy here. Let us try to keep it relevant to the matter before the committee.

Mr. Callahan: There has been an indication that there were discussions between Mr. Fontaine and Mr. Martin. I think he has already said--and I may be mistaken--that some of those discussions were about his family, his problem--

Mr. Chairman: And I do not want to entertain discussions in here about his family, or his problems, or anything else.

Mr. Callahan: I am not going into specifics at all. Did those discussions arise in the main because Mr. Fontaine was calling you about these problems he thought you had?

Mr. Martin: Could you reword that?

Mr. Callahan: You had discussions with Mr. Fontaine. In the main, were those discussions to a large extent calls that he initiated and he discussed things about the problem he thought you had and about your family?

Mr. Martin: Most of the conversation was personal.

Mr. Callahan: All right. Did you get the impression from the approaches he took that he was concerned about those issues as a friend?

Mr. Martin: Yes, he was always concerned, not only about me but about everybody.

Mr. Callahan: You have indicated--I think you did anyway--in your testimony that these discussions usually revolved around his belief, whether it is correct, that you did have some difficulty with your family and with alcohol.

Mr. Martin: Has not everybody had problems?

Mr. Callahan: So the discussions that were initiated with you were more specifically along those lines, about family matters and--

Mr. Martel: What the hell has that got to do with it?

Mr. Warner: On a point of order: I really do not think this is fair to the witness.

Mr. Chairman: I think Mr. Callahan is trying to make the point that the conversations were of a personal nature. If you keep it in those terms and keep it succinct, I will give you as much latitude as I gave Mr. O'Connor, but let us be mindful of why we are here.

Mr. Callahan: Basically, the majority of the contacts Mr. Fontaine had with you related to this concern for you as an individual.

Mr. Martin: I would say so.

Mr. Callahan: You have indicated that the first time you met with him after he had been elected was at a meeting at the Royal York Hotel.

Mr. Martin: Right.

Mr. Callahan: Was that a prospectors' meeting?

Mr. Martin: The Canadian Institute of Mining.

Mr. Callahan: At that meeting, were there discussions about the question of tax shelters?

Mr. Martin: I would think so.

Mr. Callahan: So when you tell us that you had a discussion with Mr. Fontaine on that occasion, it was a general discussion but it was relevant to what was being said at that meeting.

Mr. Martin: Yes, because I think he indicated--if I remember his speech, he mentioned that something would probably be done to get a tax shelter. Every organization involved in mining is pushing for this all across Canada, not only in Quebec.

Mr. Callahan: You also said you attended a meeting in Montreal where he spoke.

Mr. Martin: In Val d'Or.

Mr. Callahan: I gather that speech was also about trying to assist mining in general.

Mr. Martin: Right.

Mr. Callahan: You indicated to us that you did not have an opportunity then to speak to him privately about this.

Mr. Martin: No, it was just in general terms.

Mr. Callahan: You live in Montreal, but I gather you have indicated to one of the questioners that you know Mr. Fontaine quite well.

Mr. Martin: Yes, we went to school together.

11:00

Mr. Callahan: We have heard testimony that he was involved with Alcoholics Anonymous.

Mr. Martin: Yes. He is is not hiding that fact at all.

Mr. Callahan: Did you see representations over that period of his attempting to assist others he perhaps perceived had the same problem?

Mr. Martin: Anybody who had a problem could go to René.

Mr. Callahan: With reference to the question that was put to you about why he invested in Golden Tiger, I believe you said--or one of the answers to one of the questions was that was done to assist you. Is that right?

Mr. Martin: To assist me and also to help in the area; we were working in his area.

Mr. Callahan: Was the indication given to you that the initial purchase of those shares in Golden Tiger was to assist you as a friend?

Mr. Martin: At first, there were no shares. He just invested money in a grubstake. We had no idea whether we would go public or not.

Mr. Callahan: When he initially invested that money in the grubstake, from your understanding of the conversations or how it came down, did you get the impression that was being done simply to help you?

Mr. Martin: To help me and also to help in the area where we were going to work.

Mr. Callahan: And the area you were going to be working in was?

Mr. Martin: One of the areas was in Hearst--well, 100 miles from Hearst.

Mr. Callahan: Had you further discussions in that regard? I do not know whether you can recall this far back, but was the thrust of his investing in the shares to help Hearst as well as yourself?

Mr. Martin: Yes, it would benefit the area. He invested a small amount; \$2,500, if I remember. He brought me to meet a few of his friends, some more people put in money and that is how we got started.

Mr. Callahan: All right. Thank you, Mr. Chairman.

Mr. O'Connor: If I may go back to one other area, Mr. Martin, as you indicated earlier, your companies received a number of Ontario mineral exploration program tax credits.

Mr. Martin: Yes.

Mr. O'Connor: They have received them over the years and are still receiving them.

Mr. Martin: Actually, I think we got the third one that came out.

Mr. O'Connor: You got a third one?

Mr. Martin: No, we got the third one that was ever granted.

Mr. O'Connor: I see. I have forgotten the exact figure, but you have received three or four over the past couple of years.

Mr. Martin: I would say four.

Mr. O'Connor: And there are two pending right now that have been held in abeyance.

Mr. Martin: Yes, that is one thing. Why can I not get that money? I spent it. I am entitled to it.

Mr. O'Connor: That is not up to us, I am afraid. Your appearance here may be of some assistance in that regard.

Mr. Martin: The turkey came down to get his cheque.



Mr. O'Connor: Have you got his cheque?

Mr. Chairman: The cheque is in the mail.

Mr. O'Connor: During your conversations last fall with Mr. Fontaine, did that subject arise? Did you have any discussion about the OMEP situation?

Mr. Martin: No.

Mr. O'Connor: That was never mentioned between you and him at all.

Mr. Martin: No, because I was going through regular channels.

Mr. O'Connor: But he was the Minister of Northern Development and Mines at the time.

Mr. Martin: Yes.

Mr. O'Connor: You did not take the opportunity to discuss these grants with him and whether they would be made?

Mr. Martin: No, because he did not know anything about them. I just went through the regular channels. As a matter of fact, I had some problems with OMEP. They got very difficult at one point. All I had to do was pick up the phone and call René, but I did not.

Mr. O'Connor: What do you mean by "they got difficult"?

Mr. Martin: You know, small details. They wanted too much information, cancelled cheques and everything. They were getting pretty rough.

Mr. O'Connor: To prove your expenses in connection with the grants.

Mr. Martin: Yes. They had to do everything according to Hoyle.

Mr. O'Connor: Did you talk to anybody to resolve that problem?

Mr. Martin: Yes, I spoke to Solonyka at OMEP .

Mr. O'Connor: Who, sir?

Mr. Martin: Solonyka was his name, I think.

Mr. O'Connor: Rachamalla?

Mr. Martin: No, Solonyka. I think he is the one who makes the last decision.

Mr. O'Connor: Okay. Did you resolve your difficulties?

Mr. Martin: Yes.

Mr. O'Connor: When was that?

Mr. Martin: April, I think.

Mr. O'Connor: Of 1985 or 1986?

Mr. Martin: Of 1986. They sent the papers to the wrong address; otherwise we would have our money.

Mr. O'Connor: I see. You mentioned also that you are connected in a joint venture with Getty Minerals. Is that right?

Mr. Martin: Right .

Mr. O'Connor: Can you tell us briefly the nature of that relationship and what percentage each of you holds in the joint venture?

Mr. Martin: It is a very complex joint venture. They own 50 per cent of one property, 75 per cent of another, 12.5 per cent of this one and 12.5 per cent of that one. It is a long agreement.

Mr. O'Connor: In these situations, are you the only other partner with them?

Mr. Martin: No.

Mr. O'Connor: There are other partners.

Mr. Martin: Oh yes, there are several other companies involved.

Mr. O'Connor: To simplify it somewhat, you have 900 claims in Ontario.

Mr. Martin: We had. We dropped quite a few of them.

Mr. O'Connor: Were they all involved in the joint venture with Getty?

Mr. Martin: No. Actually we own more than 900. The Getty joint venture involved 908, if I remember rightly.

Mr. O'Connor: Do you own another 900 in addition to that?

Mr. Martin: No. We probably owned 200 above that, but we dropped a lot of them.

Mr. O'Connor: Generally, with regard to Getty--and I know there are different percentages with regard to each property--what is your financial investment in Ontario in those properties' total and their financial investment total?

Mr. Martin: I think Getty spent somewhat in the neighbourhood of \$900,000.

Mr. O'Connor: Your investment?

Mr. Martin: I would say we spent more than \$500,000 in Ontario.

Mr. O'Connor: How did you get together with Getty?

Mr. Martin: By picking up the phone and calling him.

Mr. O'Connor: Who did that for you?

Mr. Martin: I did.

Mr. O'Connor: You have the connection to Getty?

Mr. Martin: Yes.

Mr. O'Connor: Was René ever of any assistance or involvement with the Getty connection?

Mr. Martin: René owned some claims and he tried to make a deal with Getty and he got shafted.

Mr. O'Connor: Then what happened?

Mr. Martin: Getty reneged on the deal at the last second and the claims all came open.

Mr. O'Connor: They all came where?

Mr. Martin: Open.

Mr. O'Connor: You grabbed them?

Mr. Martin: No, no, we just let them come open. That is all.

Mr. O'Connor: But in your deal, in your arrangement with Getty, was Mr. Fontaine involved in any way?

Mr. Martin: No way.

Mr. O'Connor: Are you still involved with Getty?

Mr. Martin: I think I am.

Mr. O'Connor: You mentioned you sold off some of the claims.

Mr. Martin: No, no. Getty has an interest. They have until the end of 1987.

Mr. O'Connor: To work them?

Mr. Martin: To finish their work.

Mr. O'Connor: So the relationship continues.

Mr. Martin: It is not a very good relationship, but it still continues.

Mr. O'Connor: Why is it not good?

Mr. Martin: Did you ever try to do something with Getty? Do you know how tough the old man was?

Mr. O'Connor: You are continuing the exploration on the 900 or so claims?

Mr. Martin: Not right now. There has been nothing going on.

Mr. O'Connor: Why is that?



Mr. Martin: Because we have no funds.

Mr. O'Connor: Are they not putting funds into it?

Mr. Martin: They have no funds either. They were cut off by Texaco.

Mr. O'Connor: Are you involved in a lawsuit with them?

Mr. Martin: I am thinking about it.

Mr. O'Connor: You are still thinking about suing them to get going with the undertakings under the agreement to explore those claims?

Mr. Martin: Yes.

Mr. O'Connor: Have you had any discussions with Mr. Fontaine about the Getty involvement and how he might help?

Mr. Martin: No, never.

Mr. O'Connor: Never. Thank you. Those are my questions.

Mr. Chairman: Are there any other questions from committee members?

Mr. Villeneuve: Mr. Martin, when you first found out that you were requested to come before this committee what was your initial reaction?

Mr. Martin: I wanted to see how things would develop first. First of all, I was very busy. I was drilling at Chibougamau. That is where they finally located me, if I remember right. I did not have the time. I am preparing another underwriting. I am raising \$2.1 million on a brand-new company called Golden Rock. The underwriting is being filed today. That is why I decided to come. I have to get that out of the way. If you only realize what you have to go through to get an underwriting, you have to get a lawyer, accountants, brokers.

Mr. Villeneuve: But it is worth it.

Mr. Martin: I would think so.

Mr. Villeneuve: I guess the bottom line is being in business.

Mr. Martin: I get 10 per cent off the top, so what the hell.

Mr. Villeneuve: So your initial reaction was that you were too busy to come.

Mr. Martin: Yes. I had a big drilling program. The underwriting was stalling a little bit because of some mechanical problems, such as the accountant did not get this and the lawyer did not get that, so I was too busy to come down. I did not have the time. Then people were sending me clippings from the papers anyway.

Mr. Villeneuve: You now realize that possibly, in the interest of whatever claims in Ontario, or whatever, it was best for Paul Martin to come before the committee.

Mr. Martin: No, no way. The cheque will come; I know it will come.

The reason I came here is that René did nothing wrong. He is still my friend. He did not benefit from this. I bet you if you check with his accountant, you will see that he probably lost money with Golden Tiger.

11:10

Mr. Villeneuve: I think he has told us that and we have no reason to doubt that. You are a very strong advocate of flow-through shares?

Mr. Martin: Oh, yes.

Mr. Villeneuve: What was René's opinion on flow-through shares when he was minister? You discussed this with him.

Mr. Martin: He felt something was coming along.

Mr. Villeneuve: That flow-through shares may become a fact of life here in Ontario?

Mr. Martin: Probably. I think it is coming.

Mr. Villeneuve: He was a proponent of flow-through shares?

Mr. Martin: Oh yes, because all he had to do was see all the money that is spent in Quebec. It is unbelievable.

Mr. Villeneuve: Is your own application under Golden Tiger and Getty?

Mr. Martin: No. Getty had its own and I had my own.

Mr. Villeneuve: I see.

Mr. Martin: I have nothing to do with--Getty spends its money. They get their Ontario mineral exploration program grant. I spend mine. I get my grant.

Mr. Villeneuve: But you do not have a joint application under OMEP at present.

Mr. Martin: Not that I know of. Getty might have one, but I do not know of it.

Mr. Villeneuve: Those are all of my questions. We thank you for coming before this committee.

Mr. Chairman: Do any other members of the committee have questions for him?

Mr. O'Connor: Having been through the process, Mr. Martin, which one of us is a turkey?

Mr. Morin: Turkey, but not chicken.

Mr. Martin: Right.

Mr. Chairman: Thank you, Mr. Martin, for appearing.

Members of the committee, we have some deliberations that we have to go

through today concerning the ordering of business for next week. I am afraid we are awaiting word from Mr. Fontaine on when he will be available. I may not have that information until this afternoon. I suggest that we adjourn now until two. We will come back at two o'clock and see whether at that time we can set up a schedule for next week which meets everybody's demands as best we can.

Is there any further business you want to raise?

Mr. Sterling: We will be dealing with this matter next week? We are not going to be dealing with Bill 34?

Mr. Chairman: I will tell you at two o'clock. That is all I can do.

Mr. Treleaven: Will we have any answer on the missing memos at that point?

Mr. Chairman: We will try to have some information on that. We stand adjourned until two.

The committee recessed at 11:15 a.m.



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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

FRIDAY, SEPTEMBER 12, 1986

Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Friday, September 12, 1986

The committee resumed at 2:04 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: Mr. Sterling has indicated he wants to make a bit of a statement and I am going to let him do that in a minute. I would just report to you on the question that was raised this morning of whether certain files were included or not included in the files from the district offices of the Ministry of Natural Resources.

I would simply report to you now about the file concerning the meeting between Mr. Therriault and Mr. Fontaine on March 25. We are told by Mr. Therriault that file may have been not included in the package that was sent down from his office. The notes on that meeting may have been kept in a different file. Mr. Therriault maintains that the notations about the January 21 meeting were in the file. John has looked through the copies of them that we got and we cannot find it, so we will simply have to go through that once again and see if we can find those notations.

I just report that to you as an early indication of what we have been able to determine. The one may have been kept in his personal file. He maintains that the other one was sent in the package. MNR says that what we got was what was sent down from those offices. So there is one which is in question and we will go through the files again to see if we can find it.

Second, I have had a request from Tom Mitchinson to appear before the committee to deal with the legislative television services program schedule presentation. Apparently, he, Michael Applin and Bill Sommerville have developed a program schedule for the fall broadcast schedule. I told him it might be difficult to get that matter on the committee's agenda.

I take it there is not any decision involved, other than he wants to inform the committee. I suggested to him it might be possible to establish a little steering committee, one from each caucus and the chairman, to kind of take a look at the material. I think he is concerned that we be kept informed. He thought that would probably do the trick. Mr. Morin, Mr. Sterling and Mr. Warner are available for Tuesday morning. If anyone else on the committee is around and would like to take a look at this stuff, we will probably do that in my office, room 350.

Mr. Warner: What time?

Mr. Chairman: Shortly after nine o'clock on Tuesday morning.

Mr. Martel: Do you want me to come from Sudbury?

Mr. Chairman: I hope your cold gets worse over the holiday weekend. I do not want to see you ever again. Does that answer your question?

Mr. Martel: Can I leave now?



Mr. Callahan: Can we vote on that?

Mr. Sterling: Mr. Chairman, over the past 10 days, I have been very much concerned about a press release which was issued by our caucus on September 2 and which bears my name. I have been concerned about it because, before that press release was issued, I was not consulted on whether it should be released or not be released and, therefore, a lot of the words in that press release are not my own words. I have thought since that time, because so much damage was done the next day, it would not be necessary to address the issue, but I have seen during the last few days of hearings that some of those matters were brought to the fore by other witnesses and therefore I would like to put clearly what I do not agree with in that particular communiqué.

I was caught in the position at the time of learning about the communiqué after it had been released to the press and therefore was in a very difficult position to recall it. Perhaps I should have done it at that time. With regard to the use of the word, "lied" in the phrase "Mr. Fontaine lied to the Legislature," I believe I used a similar reference in this committee and withdrew it. I would not have used that word in a press release, knowing that it is unparliamentary to do so.

14:10

I would like to go to other statements that are made in the press release with which I would not like to associate myself. I will read the whole paragraph. It says: "Since this issue was first raised last January, Fontaine has continued to assert that he has had no dealings with any of his interests. However, we find that not only was he involved in the day-to-day activities of his companies, United Sawmill Ltd. and Hearst Forest Management Inc., he has made decisions on government grants to his company and to his competitor and has actively tried to influence the decisions of public servants to further his own ends."

I have great difficulty coming to the conclusion that he has made the decision to further his own ends from discussions with public servants. I do not know whether that is true or not true.

With respect to the other parts of the press release, I would like to relay to the committee and to the public my concern that there seems to have been some activity with United Sawmill. I do not know whether he was involved with the day-to-day activities; I do not know whether that is a fair description.

I see in the press release, "Fontaine has tried to influence a public servant to exclude a local competitor from becoming part of his co-operative, Hearst Forest Management." I do not know whether that is true. I do know he was involved in the negotiations; I do know that Lecours and United did not want Levesque in the agreement, but I do not know whether Mr. Fontaine did or did not use his influence. We may have to draw some inferences from whatever Mr. Fontaine says.

"Fontaine has endeavoured to influence a public servant to resolve a problem with a local native band which is of concern to his partner in Hearst Forest Management Inc., Lecours Lumber." I think he probably did use his influence to resolve a problem; I do not think there is any conclusion to be drawn from that. In one way, I think he was doing his job as a minister to do it, but it is unfortunate he has an interest in Hearst Forest Management Inc. at the same time. I do not know which side of the coin he was on, whether he

was working for the native band or for the forestry company, United Sawmill or Lecours.

The other statements contained in the press release relate to documentation that was supplied to us. "Fontaine has been responsible for deciding whether his company, United Sawmill, would receive government funding for building forest access roads even prior to his interests being placed in a supposed blind trust. At the time, he indicated to United Sawmill that it would be eligible for an \$850,000 grant from his ministry through the northern Ontario resources transportation committee." I believe the documentation will prove or will not prove that point.

"Fontaine has denied money to his competitor Levesque Lumber for the construction of similar roads until the FMA with United Sawmill and Lecours is signed--a deal which Fontaine does not want Levesque included in." That appeared to be the case from the correspondence we had, but Mr. Therriault indicated yesterday that the grant had in fact flowed through, notwithstanding the letter from Mr. Fontaine.

With regard to the conflicts in testimony, I believe there still are significant conflicts in testimony that were placed before the committee in what other witnesses have said.

I bring these to the attention of the committee at this time, first, because they have bothered me greatly in the past 10 days since the words were not my own. Perhaps our researchers were a little overanxious in drawing conclusions. I guess my training as a lawyer indicates that we should hear most of the evidence before we draw our conclusions, although we are tempted to draw them from time to time, especially in the heat of political debate.

When Mr. Fontaine comes before the committee, I think it is important that he not be dealing with allegations that are not made by a particular member of the committee and that he use his time and efforts to meet the allegations and the conflicts that are in existence.

Placing this information before the committee is perhaps a weak defence, a withdrawal at this time, but I feel I must do it at this time because of Mr. Fontaine's appearance and because I did not feel it was right in the beginning and the issue seemed to crop up from time to time.

I may be guilty by acquiescence to the press release and by not having refuted it at that time, but I may have to live with the consequences. I would like publicly to apologize to Mr. Fontaine and any of his associates or the people dealt with in the allegations contained in this particular press release for any inaccuracies, which I do not believe have yet been proved or may not be proved, and particularly to his family who, I am sure, have had some anguish over this matter.

Mr. Chairman: The next matter for committee members to consider is that we have extended an invitation to Mr. Fontaine to appear before the committee on one more occasion. The information I have indicates that Mr. Fontaine would like to do so. Unfortunately, if we maintain the current practice of inviting people to appear at their pleasure, which we have maintained throughout the entire course of these hearings, the first occasion when that appears to be possible is next Friday morning. I am aware that causes difficulty for a lot of people.

While you are thinking about how this might get ordered for the



following week, let me offer you a couple of thoughts. It does seem possible to me that the committee could spend, and should spend, some time--probably a couple of days--going over the staff's draft report of the facts as they were presented, so that there will be no disagreement on those matters, and going over such matters as the legal opinion put together by Merike Madisso on sections 10 and 11 of the Legislative Assembly Act and our concurrence or nonconcurrence with that legal opinion. You may want to seek some kind of legal opinion from Merike on whether he did or did not conform to the guidelines. If you gave us some direction on matters such as that this afternoon, we could probably have them ready by Wednesday or Thursday of next week.

To sum up, there is a couple of days' work to be done in terms of drafting matters in the report, other than the conclusion. The difficulty in hearing Mr. Fontaine so late in the week seems to be simply that it may be a rather short appearance. He may want to make a simple statement and you may want to question him a bit. I cannot tell whether it will take a half day, a day or whatever. It seems to me you may want to reserve some time to think about replies or statements he makes during the course of that event before you move to drafting the conclusion.

The conclusion, I suppose, can be based on a framework such as Mr. Warner's motion. He has provided you with notice of that motion and you have copies of it. You may want to amend it, you may want to delete it or you may want to do something else; but you have in general terms an indication from at least one member of the committee of how you can frame that conclusion.

We have indicated, and we have agreement, that when we draft this report we will not do a long report on conflict-of-interest guidelines. We are aware, for example, that the Aird report on conflict of interest will be referred to this committee when it is tabled, so we can anticipate that we will spend a considerable amount of time this fall going over in general terms whether there should be a law, whether there should be guidelines, what should be covered--all the complicated aspects of conflict-of-interest guidelines or laws in general.

It will not be necessary, in my view, and I think we have concurrence on this, that in advance of that report we rewrite the book right now. We have a little latitude on that. It can be a report which is succinct; it does not have to be wordy. In fact, I suppose you could conclude at this point that there is a draft of chronology, events and facts, there is a draft of legal opinion, there is a draft of a motion and it might be a relatively swift exercise to conclude. It would not necessarily be a long argument.

14:20

To help you, I do not think you want to get yourselves in a position where you have to make up your minds and conclude the report in two or three hours. I think that would be unfair. It has been a long hearing process and whether or not a lot of words are used in the final report, you will want to exercise some discussion around it.

If Mr. Fontaine is to appear next Friday morning, I think we had better notify the House leaders that we will need at least one day in the following week to conclude this report. To be fair about it, it also seemed to me to be not reasonable to hear him on Friday and then not to conclude the report as swiftly as possible. In other words, to hear him on Friday and then wait for another month or so until we have the permission of the House to sit again



would seem to me to be unfair. Once we have heard his testimony, if he comes before us on Friday, it is our duty to complete this process as reasonably quickly as we can.

Those would be my observations on it. Since we have put a motion to invite him to appear, I take it we have not changed our policy and we will hear him at his pleasure. I would not be interested in hearing any motions in the next couple of minutes. I would like to hear your assessment of how we proceed from here. I am basically suggesting that we sit Tuesday and/or Wednesday and Thursday, we do the background work on it and we hear him on Friday. We might take a shot at concluding it Friday afternoon if that is possible but, realistically, I think we would want to go to the House leaders and ask for permission to sit the following Monday or perhaps two days.

Mr. Martel: I do not disagree with what you have said. I just have a very serious problem on Friday morning. I have a long-term commitment to speak to the United Steelworkers in Ottawa on occupational health on Friday morning at a conference. I probably could get out of Ottawa by 1 p.m. and get back here to hear Fontaine in the afternoon, if that was agreeable. I have difficulty in cancelling this item, because it is one of the things they have put on for two hours in their conference. It is a little late in the day for me to be phoning them saying, "You alter your whole program for next Friday morning, because I cannot be there," when we have taken the position that we were sitting only on Tuesdays, Wednesdays and Thursdays and I made my commitment to them on that agenda. I am prepared to try to make arrangements to get out of Ottawa by 1 p.m., which would get me here by about 2:15. Other than that, I am really having difficulty.

Mr. O'Connor: Ditto for me. I have pretty firmly fixed constituency events next Friday and it would be difficult to get out of them, although probably less difficult than for Elie, because I am closer. Obviously, I would prefer not to.

Mr. Sterling: It seems to me very unlikely that we will write the report on Friday. Were there any alternative dates given by Mr. Fontaine? It is next week that is a problem, is it?

Mr. Chairman: We have made him aware that we have a time constraint in that we have permission to sit next week and that is it.

Mr. Sterling: Notwithstanding that, it now appears if Friday was the only date on which he could come, there is no question we have to go into the following week in some manner in order to write the conclusion.

Mr. Chairman: One day is not a problem. Let me try to put it to you this way. In practical terms--

Mr. Sterling: I am saying I would rather sit on Tuesday and Wednesday of the following week and forget Friday.

Mr. Chairman: This is a bit of a nightmare. If we bump into the Tuesday, Wednesday and Thursday cycle, the normal cycle of committee sessions, we then begin to bump all the other committees which have not been sitting during the summer or adjourned for a while. There are very real, practical problems in getting bodies here to fill committees. I think we could get away with the Monday because not many of the committees sit Monday. It is an inconvenience for members on this committee but it also solves problems elsewhere. Once you get into Tuesday and Wednesday, though, you are

interrupting some other committee's schedule and it becomes more and more difficult. I think we could convince the House leaders to let us sit on Monday--I do not believe that would be a big problem--but when we start talking Tuesday, Wednesday and Thursday, letting it go into the following week, they will be saying: "We have bills to be processed. We have other things that have to be dealt with." They have all made long-term commitments on their schedules. It is a snowball effect and it is very difficult. We can try.

Mr. Sterling: The Conservative members have a problem. Our annual meeting is beginning on Thursday night of next week as well and most of us are planning to be in Hamilton on September 19.

Mr. Chairman: I know there are problems from everybody's point of view; I have the same problems. I am saying that if you want to conclude this process, it will have to take priority. Some members have already told me they will not be here next week and I cannot do anything about it. If your priority is events in your riding or speeches somewhere else, I cannot compel you to attend. I am making a pitch. Is it possible to rearrange schedules to do this?

Mr. Treleaven: One of the problems we have is that we had contemplated the Fontaine matter to be over a long time ago. Yesterday and today were add-ons, which have already infringed upon other things for these two days. I do not know where we end the adding on and completely upsetting everything else in our schedules. To be crass about it, there are other things going on in the province, some of which I have to give attention to. I have already shuffled off these two days. We are all booked next Friday. Let us keep things in perspective.

Mr. Sterling: If Mr. Martel can be here late Friday only, there is no way we can have Mr. Fontaine that afternoon. I prefer not to be here, but I will be here if that is what we have to do. There is no way we are going to write a report.

Mr. Martel: The other committees are not sitting on Monday, or very few committees sit on Monday, which means we could come in and finish Monday. If we start Monday morning at 10, we might be able to get a real run at it and get a draft copy. We might have to spend an hour looking at it together over lunch or something the following day. If we start hearing Mr. Fontaine the following week, there is simply no way we will ever get done with the bloody thing once we get into other committees. I am sure all of you, except me, are on some other committee.

Mr. Morin: Because of the seriousness, the gravity and the implications of the statements that were made this afternoon, would it be possible to have a recess for about 15 minutes?

Mr. Chairman: Yes, that is in order. I am prepared to do that. Let us adjourn for 15 minutes and we will try to be back here at 2:45. We will go over the schedule in the interim.

The committee recessed at 2:28 p.m.

2:47 p.m.

Mr. Chairman: We are ready to resume.

Mr. Morin: I have met with my colleagues, and it was a unanimous



decision that we should hold an in camera meeting Wednesday morning, if possible, with our colleagues in the centre to discuss this issue more elaborately.

Mr. O'Connor: What issue?

Mr. Morin: The problem that we have in mind, a problem that we have discussed and that we feel all of us should participate in.

Mr. O'Connor: What is the problem?

Mr. Callahan: The statement by Mr. Sterling is one I did not anticipate and I do not know whether anyone else here anticipated it, other than perhaps his own colleagues. It comes as a bit of a surprise. In light of that, this may be the reason for requesting that we do meet in camera on Wednesday. If we had known this was coming forward, that would have been one thing, but it came out of the blue.

Mr. Treleaven: Is that a suggestion that the Liberals meet with the Conservatives? Is that what I understand?

Mr. Callahan: No, the entire committee.

Mr. Morin: It has nothing whatsoever to do with politics.

Mr. Treleaven: You said your caucus should meet with the members in the centre.

Mr. Morin: I said I met with my colleagues and I hoped that the people, the colleagues in front, would be agreeable to meet in camera on Wednesday morning. That is all I said. If it is not agreeable, then we will not.

Mr. O'Connor: I may be agreeable to that suggestion, but I think that you are going to have to be more specific about what the problem is. As I interpret what happened today, Mr. Sterling, who issued a press release a week or 10 days ago, now says, on looking at the evidence we have heard since then, some of the things he said may not have been fully proven and that he may have gone too far in some of those statements but that he is prepared to look at all the evidence and take part when we make the final report. I do not see that there is anything more than that there. Perhaps you can explain to us what your concern is and why we should meet in camera over his remarks this afternoon.

Mr. Callahan: To his credit, Mr. Sterling has acknowledged something that, I suppose, is an imperfection of legislative committees judging other fellow MPPs in situations such as this. We are acting--and I think you have raised this, Mr. O'Connor--as judges.

Mr. O'Connor: Yes.

Mr. Callahan: If one or more members of the committee go outside to the public media and make statements that indicate they have perhaps made up their minds before all the evidence is in, that creates a difficulty. I think Mr. Sterling recognizes that.

Mr. O'Connor: There is a solution to that, and we are prepared to suggest it today if you wish.



Mr. Callahan: What is that?

Mr. Sterling: Having gone through the Re-Mor and Astra Trust situation, which was not dissimilar to this situation, and having had a great deal of concern when we got into it because of trying to maintain fairness--where you have a political element involved in a hearing such as this, it makes that extremely difficult--I have become more and more convinced as we have gone along in these hearings that these are the inappropriate quarters for such a hearing, particularly when we get in a situation where we have so much evidence from so many different quarters. Every time we hear a new piece of evidence, it seems to lead to our wanting to look at more and more detail and all the rest of it. The pile of documents that we have now is astounding.

I am prepared to move, if there is a want within this committee, to recommend to the Legislature that we turn this over to a judicial inquiry.

Mr. Morin: I am sorry; I missed the last part.

Mr. Sterling: That we turn this matter over to a judicial inquiry, where, I believe, there would be a fairer hearing process.

Mr. Chairman: Let me respond to that briefly. That certainly would have been one of the choices available to the Legislature when this began. By motion of the House, this committee has been directed to conduct these hearings. The time for debating what is the appropriate vehicle has consequently passed. If there was a feeling that this was not an appropriate venue to hear this case, it seems to me that it would have been at the time that the motion was put in the Legislature.

Having been given direction by the Legislature to conduct these hearings, this committee does not, in my view, have a choice in the matter. If there were any options open to the committee to reject the motion, a motion of that nature, that we did not want to do it, could have been put at the beginning of the proceedings. There would be some difficulty, because it is a motion of the Legislature. It was supported, I believe, by all three parties at the time. I reserve judgement on it now, but my inclination is that a motion of that kind would not be in order now.

I will listen to argument and I would want to reserve it before I would make a formal ruling on the matter. Generally, a motion is in order.

Mr. Treleaven: Mr. Chairman, may I point out one thing? In your own words throughout the hearings, you have questioned whether this was the greatest place in the world to hear this matter. When we started out and when the House dealt with it, we were dealing with a fairly superficial matter of some fellow with an apparently bad memory who was forgetful. That is all we had. It has come down to this and we have gone far beyond that. I am sure these pounds and pounds of documents are not what the Legislature believed we were going to be dealing with and what they were putting to a committee. We have pushed aside everything else, freedom of information, on and on. I do not think this is what the Legislature contemplated.

Mr. O'Connor: I think the difficulty we are in is that, as my colleague has just stated and as you have stated quite eloquently, our mandate was to deal with an alleged conflict of interest with respect to one of the members of the House. As a result of extensive hearings over the summer, much more evidence than we ever anticipated has come to light, which has raised the

possibility and the allegation of much more serious conduct on behalf of Mr. Fontaine than mere conflict of interest. What I am referring to is the possibility of perjury under the Criminal Code. That is a criminal offence in which somebody who was under oath misleads or lies.

There is the possibility of violations of the Legislative Assembly Act, which are quasi-criminal in nature and draw criminal penalties if individuals are found guilty--items, things, matters which were not contemplated when we started. Because we are in this position now and because of the very much more serious consequences than a mere finding of conflict of interest and the penalties that might arise from that, which would be so much less than these other matters, I really think, in fairness to Mr. Fontaine--and this is something I have said right from the outset, probably two or three times through this--the least we needed was a counsel, which we do not have and we cannot have now.

Surely we need a judicial body such as a judicial inquiry, which would be presided over by a Supreme Court judge, who would have the wisdom, the authority and the will to enforce the rules of evidence on the admissibility of evidence, which we have not. Quite frankly, evidence has flowed through this committee, which offends me as a lawyer and, I am sure, many others. It bears no relationship to the rules of evidence; some of it is hearsay; some of the documents are unproven, for instance. Who knows what?

We present them because we are allowed to, and that is the nature of this forum. It is wrong. It is wrong when we are dealing with matters such as perjury, violation of the Legislative Assembly Act and the allegations of influence peddling that we heard yesterday. I am not saying they are proven and I am not accusing anybody of them. I am just saying there is evidence to that effect and, because of the seriousness of that evidence, I think he deserves his day in court. He did not get it here and I do not think he will get it here. He should do that either by way of a judicial inquiry, as is going on in Ottawa right now, which is very carefully, in a judicial manner, examining the evidence and the witnesses, or by way of a trial of some type. He is not going to get it here, and I think he deserves it and we ought to refer this.

It is quite within our realm to do so. Matters are referred to committees of this House and returned to the House without any debate or comment whatsoever. In this past session, the example I would put is Bill 11. It was sent out for study and put right back to the House and then to the committee of the whole House. We have that option open to us.

Further, a judicial inquiry eliminates one of the problems we are all dealing with and which has become very evident in all the votes we have had back and forth, that is, the political overtones. Every one of these votes has been four for and two going one way or the other.

Mr. Martel: We tried to give it balance.

Mr. O'Connor: Let us all recognize that it is not four fair-minded people over there thinking differently to four fair-minded people here. We are dealing with it on a political basis and so are our friends to the left or behind me, as they see fit. A judicial inquiry would eliminate that kind of suggestion and appearance.

Mr. Martel: I can understand the concern of my friends, both groups now, because we have ourselves in a wonderful situation. Of course, I give my



friend Sterling credit for coming forward with a statement. It is a tough situation when you are put in a position as he was. I can understand the difficulty, having had on occasion to apologize myself in the Legislature. Eating crow has never been one of my favourite pastimes.

15:00

Mr. Treleaven: You apologize?

Mr. Martel: I am not even good at it. The feathers keep sticking in my craw on the way down. I understand the difficulty for my friend who, without his knowledge, had a press release go out. The Liberals perceive him to be in a role where he cannot judge fairly. I think just the opposite, that my friend is going to be much more sensitive since he has been put in a terrible position by someone other than himself. The sensitivity he will bring may be beneficial in the long run to a proper disposition of this matter.

I can understand the Liberals' reluctance to see him stay on. Because they feel he has already prejudged, there will be a problem of trust. I think that by the very nature of what he has done, he has probably indicated a greater sensitivity than most of us. I said from the outset too, as I listened to the speeches from both sides, that perhaps we had decided where we should go. I said that facetiously: We have tried to keep it honest.

As I said the first day, one has only to listen to the questions that are asked. You do not even have to know the players. All you have to do is listen to the questions being asked, because one side is defending and the other side is charging. Anyone who tried to get around that was full of baloney. That, or perhaps something a little stronger, was the term I used on a couple of occasions when people tried to take it out of the realm of politics. This is a political arena after all. While we have tried to keep it to some degree from becoming a witchhunt, or from fishing for ever, at the same time we have tried to give it some latitude to go.

Mr. Treleaven: Take your foot out of your mouth.

Mr. Martel: Some people insist on my friend stepping down, but I think they would be wise to keep Mr. Sterling here. He suffered through this thing. He talked to me yesterday. He was obviously very upset and suggested it should go to an inquiry because we could not judge it impartially. I think that was bothering him. I watched carefully today as he spoke on this matter. He did not do it with any sense of relish. Those of us watching him realized that. We are into a hell of a predicament.

The chairman is right. The Legislature voted on this. We can say we cannot report, which then throws it back into the hopper for another three, four or five months, whereby a member's integrity continues to be flogged. One has only to listen to the Sinclair Stevens stuff going on. That has now been dragging on for ever. It will drag through the mud. There are some serious allegations.

Yesterday, I was probably more disturbed at any time than I have been since the beginning of the inquiry, simply because I was not satisfied. I am not satisfied with the candour in the statement made to us as members, which neglected, for example, to point out that there were four meetings with the Ministry of Natural Resources over a forest management agreement.

I raised that the first day. I said we would never get to the bottom of



the FMA if we lived to be 100. I have learned after 19 years here that cabinet can cover up many sins. I did not think we would get nearly as close or get the sort of information that we ultimately received. I would have felt better if the minister had said to me during that process, "Yes, I had four meetings with MNR staff because, as a member, I wanted this thing to move."

I wish he had told me that, because for me it leaves a serious flaw. All of us dislike judging, but that is what we are going to have to do ultimately. That bothers me, and I think that is why people have made what some might consider irrational statements out of some frustration. That does not say one should do it, but in the cut and thrust of this zoo, it happens with some regularity.

If you want to send it out, you are sending it for four or five more months. We are now near the end, and maybe the best thing is to get the damned thing over.

I suggest to my friends that they should consider what they are asking the member from Carleton-Grenville to do, because I think his sensitivity has been attuned much more greatly than it would have been had not somebody put out a press release that has hurt his reputation as well in this whole process.

I ask you to consider that, because I think it makes more sense now. You can do what you want. I think you should consider that carefully.

Mr. Warner: I would like to deal with the two separate matters. First, there has been a concern, not expressed with the precise words but a concern, about Mr. Sterling's objectivity. I think that is what Liberal members were driving at in suggesting, perhaps because of the press release that was issued and the retraction that was stated here this afternoon, that Mr. Sterling should no longer sit on the committee.

I ask the people who were thinking about that to give it sober second thought. As far as I am concerned, the only way I, as a member, can function in this Legislature is to take what is said in Hansard as being a statement of fact.

I listened very carefully to what Mr. Sterling said this afternoon, and what he said was that the conclusions stated in the press release were not conclusions to which he could now subscribe. He had not reached that stage of saying, "Here are the facts, and they lead to a certain conclusion." To me, that establishes objectivity.

He apologized for whatever damage has been personally felt by Mr. Fontaine and his family. He indicated he did not issue the press release, and I have to accept that as truth. We can each have our own ideas about the propriety of the press release, but when a member says, "I did not issue the press release," then, as an honourable member, that is to be accepted.

What is said outside the House or outside a committee is an entirely separate matter from what is said in committee or in the House. I accept at face value that Mr. Sterling remains an objective member of the committee. I do not have a problem with that.

To be fair and candid about it, I think what Mr. Sterling expressed in what I can best describe as an emotional moment was probably something that most of us were thinking but did not say. To be charitable, there were discrepancies between Mr. Fontaine's original statement and the material we have received--huge discrepancies.

Mr. Callahan: Excuse me, Mr. Chairman. I do not like to interrupt my colleague, but some of the statements that have been made by several of the members are compounding the issue. We are hearing conclusions they have already drawn before hearing all the evidence.

Mr. Warner: Mr. Callahan, I am sorry if you were not listening carefully. I will repeat it. There were discrepancies between Mr. Fontaine's original statement before this committee and the material we subsequently obtained. That is fact, and there is no member who is objective who would dispute that. It is fact.

15:10

I used the word "discrepancies" because we have not completed the hearing process. In fairness, Mr. Fontaine has not yet had an opportunity to respond to the discrepancies. He may have an explanation for the discrepancies; I do not know.

What Mr. Sterling blurted out in a moment was, "He lied." Then Mr. Sterling took that back, because it is unparliamentary.

Mr. Callahan: But then did it outside too.

Mr. Warner: Unfortunately, a press release--

Mr. Bossy: Whose press release?

Mr. Warner: I do not know; a press release connected with Mr. Sterling, apparently. I have not seen it and it is not my business. No, it was not released in this committee; it is not a document before this committee. It was a press release that was issued outside the committee; it has become attached to Mr. Sterling, and he now wishes to detach himself from it. As far as I am concerned, that does not destroy Mr. Sterling's credibility as a member of this committee. In the statement he made before us earlier, he established his objectivity, and as far as I am concerned, there is no reason for him not to be serving on this committee.

With respect to the second matter, which is the suggestion about a judicial inquiry, I ask members to reflect on whether it is possible for this committee to do that or whether it requires the direction of the government. I suspect a committee cannot order a judicial inquiry; I suspect it has to come at the direction of the government. That is one point.

The second point, however, is that as far as I can determine, we have received sufficient information--save and except the invitation that was given to Mr. Fontaine to respond--from which we can form a report based on the directions that were given to this committee. That is the point we should go back to: What were we asked to do? As far as I can see, we have received sufficient information to answer the directions we were given from the House--that is our job--and to report back to the House.

Maybe it is blown out of proportion a bit when you are suggesting it should go to a judicial inquiry. I do not see that it is appropriate. I cannot see any need for it. I assume that what we can do is to hear from Mr. Fontaine, do the report and report back to the House. I do not think it is any more complex than that.

Mr. Callahan: Again, I go back to my initial reason for reacting to



this. We have had a lot of discussion about it; I have listened to the discussion very carefully, and a lot of statements have been made that perhaps reveal the thinking of some of the members. However, my reason for asking for the adjournment was simply that the statement by Mr. Sterling was a surprise, I am sure to everybody--certainly to me; I cannot speak for my colleagues.

A statement is issued. Mr. Sterling has taken the steps to retract it. He has retracted it here, and as I understand it, it was a public statement that was made outside this committee chamber. We do not know who made the statement; we do not know who authorized it. Certainly I do not have statements of that type come out of my office that are not authorized by me. I do not think any of my staff would dare do that.

I would like to get at the root of who authorized the statement. Is it good enough that Mr. Sterling withdraws the statement, or is it necessary to know just who made that statement, because in the interim one of our colleagues, who is supposedly being judged by this committee, has been spread all over the newspaper as being in the words of the press release.

It is kind of like bringing something back after it has already sullied the reputation of an individual, and I suggest that is the difficulty. I would think that for us to make any decision at 3:15 on a Friday afternoon on an issue such as this would be very dangerous. Even though we do have time constraints, and I recognize that, I also recognize I am not a regular member of this committee. Perhaps you were quite right that there should be continuity, and I agree with you. Quite apart from that, on a Friday afternoon at 3:15, I suggest that we not proceed any further with any of this matter. It is not just simple enough to withdraw certain parts of that statement. Many of us do not even have the press release, so we have no way of knowing whether Mr. Sterling has withdrawn all the items, whether he subscribes to certain items or what, and that is very essential to know.

With reference to the question of whether he can continue to sit, I would expect that we as members of the Legislature--sitting as judges, in a sense--would be fair enough to look at the facts and try to judge on the basis of the facts; but we will never know. I do not say that in a disparaging way to Mr. Sterling. Mr. O'Connor has raised certain points that, as he sees them, are difficulties. That would lead me to believe he has perhaps formed certain ideas about what he has heard so far. I think Mr. O'Connor, Mr. Sterling and Mr. Treleaven would agree with me that no judge in the world would ever tell you what he thought after the crown's case was in or before the defence's full case was in. That would be totally unacceptable.

To follow up on what Mr. Martel said, first of all, I agree with you, Mr. Chairman; I do not think we have the authority at this point to do anything other than either wrap up the committee and report nothing or report something.

In addition to that, there is a human element to it. Mr. Fontaine has been put through hell, I would imagine, for the period of time this committee has been sitting. He is left in a state of uncertainty. He does not live in the community of Metro Toronto; he lives in the north, where I am sure his reputation is well known, and it may very well have been sullied. I can see why Mr. Fontaine would want to come back here. He is probably incensed by the comments that have been in the press that were from that press release. Any one of us would be screaming from the rooftops if that took place.

It is unfortunate, but every member who sat on this committee should



have had enough knowledge that he was judging another human being not to sit in here and do something, then go outside to the press and make hay out of it. I recognize this is a political forum, but surely to God when we are sitting in this particular role, we should have--and particularly, I do criticize Mr. Sterling for this. He is a lawyer, and a lawyer should know better than to do that.

Mr. Sterling: I did not do it. That is what I told you.

Mr. Callahan: Mr. Sterling, I am sorry--

Mr. Chairman: Let me intervene here for a moment. I indicated yesterday that I am most uncomfortable with a great deal of discussion about who said something in the hall or who issued what press release. I offered Mr. Sterling the courtesy, as we have done previously during the course of these hearings and as I would to any member, to make a statement to correct the record, to clarify something he purportedly said. I would do that again in a minute. I believe it is every member's right to try to put on the record a correction to explain the circumstances. That is just a courtesy we offer to every member.

We now seem to be into a long discussion about what he said and whether it was appropriate. I would have listened with a great deal more attention to outrage over whether what he said in this press release was appropriate if someone had come in here the day after the release and said: "Somebody on this committee said this. I want the committee to be seized of the matter and decide whether it was appropriate and whether he can continue to sit." I have less courtesy, attention--whatever--for statements that were made on September 2 that incur your wrath only 10 days later.

15:20

If you were outraged about what he said, you should have come in here the next day and expressed the outrage. It is a very old tradition that if you have something that is essentially a point of privilege, you are not as a member really given three months to gather up your outrage on the matter and express it. You are expected to express it at the first opportunity. You could be somewhat critical, I suppose, of Mr. Sterling because he did not come in and retract it the following day. He offered a bit of an explanation for that.

As a group, you seem to be getting off on a side track and I am going to try to get you back on the main track. You are here this afternoon to order the business for next week. I would like you to do that. You can express all the opinions you want about whether what somebody said was fair and reasonable and you can do that next week for three days if you wish. I would like to direct your attention to how you want to proceed with the business next week.

I conclude by simply saying that you have indicated you want to offer Mr. Fontaine the opportunity to appear again. I have put to you the problem that he appears not to be able to do so conveniently until Friday. The committee could say, "We will be here Tuesday, Wednesday and Thursday and if he wants to come, he can come." You have offered him the invitation to appear. You have made known to him the schedule of the committee.

I am trying to juggle everybody's schedule. I have had the same problems everybody else has had, so I am sympathetic about events that you would like to attend and other duties you think are also important; but I would point out to you that you have all said at one time or another that this is not a minor

offence here. This is a major occurrence. It is an important matter and, in my view, it should take precedence over all these other things. If you did not want to sit here and do this job, you should have said so initially.

We have had problems, and I have congratulated the members of the committee for doing their best to be here and for keeping substitutions to a minimum. I am mindful, too, that I am getting near a position where at a time when this committee will be concluding its report on the matter, I may not have people sitting in front of me who have actually heard the testimony. I find that disturbing to be polite about it. I am trying to get you back on track, to talk about what you want to do next week, how you want to order that business and clear aside all of the hurt feelings and whatever you have. I am not denying for a moment they are valid.

Mr. Morin: I want to speak from my heart and I want to speak honestly as a new member. I feel I was elected because, like all of you, people trust me. People see fairness in us. They look up to us. We represent justice. I am disturbed honestly, and I say this because I do not like talking this way because it is implicating and pointing my finger, and God knows, nobody is perfect in this world.

A man, a person, whether it by him or whether it by his staff, a man's character has been smeared in the front page of the Sun, has been smeared in all sorts of ways. A judgement has been rendered without even listening to all the witnesses. It is not fair. Let me give you an example. A judge sits in court, goes outside before the trial is finished and renders a judgement. He says: "My friend, you are guilty. You are a liar." Then he comes back and he expects to have the same credibility.

I honestly--and I say that sincerely--have difficulty in accepting that. Credibility to me means trust. Credibility to me means confidence in a person. I know Norm Sterling. I have met all of you and I respect all of you. My only concern is how will the public react. To say you have a person who has already rendered a judgement, how can you really be fair? Is this what you are all about?

I have a reputation to keep. You all have a reputation to keep. I respect this assembly; I respect all of you. I feel it is not fair to have a person--and again, I do not like saying that--whose credibility is questioned among us. We are judging a fellow colleague. Whatever the charge, it is not finished yet and we hope we can continue because we can do that job. We have the ability to do it, and I do not question the ability of this committee. To pass it on to a judicial inquiry means we are not capable of doing our own job. We are capable of doing it.

I think the reasonable thing to do--and I repeat again--would be to sit in camera. We should get together again and show the public that this is a fair committee. Believe me, I am not talking politics. I am talking as a person who is trying to be fair. That is what I want to be. I want the public to perceive that this committee is fair. We do not prejudge. Everybody has a chance to voice an opinion, irrespective of how long it takes, but at least justice will be done. To me, that is important.

Again, Mr. Chairman, I ask, I beg you that we sit in camera to discuss it again thoroughly and come to a conclusion so that the public knows this committee is credible. You can never point your finger at anyone because some day it will be pointed back at you if you do wrong. We live in that atmosphere as politicians. We live in a fish bowl. People look for guidance, direction



and advice. They elected you because you are their representative. That is really my concern. We are capable of doing that job. Should we pass it on to a judicial inquiry, pass it on to somebody else because we feel we are not competent to do it? Is it that complicated? I do not think it is. I think we will be able to arrive at a decision which will be fair.

Again, with the support of my colleagues, I ask that we sit in camera Wednesday morning.

Mr. Treleaven: I take what Gilles has said from the heart and I think by his very words he is proving Mr. Sterling's point, that we should have a judicial inquiry. The House asked this committee for a recommendation. It is within the power of this or any other committee to report back, whatever its report is and whatever its recommendations are. If its recommendations are that this thing has grown like Topsy and has become far more widespread than anyone ever contemplated at the beginning, then since we are sitting as a quasi-court, we should divest ourselves of it when it gets this complicated and a judicial inquiry is necessary because of it.

Mr. Morin has suggested we go in camera, and I say that is bad. The public is sitting here--

Mr. Morin: Excuse me. Let me interrupt. When I said, "Let us go in camera," it was to decide how this committee should proceed. That is what I am saying.

Mr. Treleaven: Right. I disagree with the idea of going in camera. I believe this is in the public forum at this point. It has been public all along and I do not think we should duck in camera on this when the going gets a little rough.

Mr. Morin: That is not what I am saying.

Mr. Treleaven: You want to discuss it and iron things out.

Mr. Warner: He wants to discuss Norm's position in talking about the case.

Mr. Treleaven: Right. I believe what Norm has done is public and it should stay public.

We have a problem here in this political arena. In a court, you can say what you wish to say and the judge, the jury or whatever will repeat that. We have a problem when we are dealing with another MPP. We cannot use unparliamentary words. It would be a travesty here. We are a court and we are being asked to fulfil the functions of a court. It would be a travesty for us to believe a certain fact and be unable to say it either in words or in writing. If the majority of this committee believed something, the expression of which was unparliamentary, it would be a travesty for us not to report it back to the Legislature. That is what it has asked us to do.

We must have a judicial inquiry. We must get out of this political forum and I hope--

15:30

Mr. Warner: You guys have short memories.



Mr. Callahan: Why did you not raise it at the beginning?

Mr. Treleaven: It has been raised all the way along.

Mr. Callahan: It has never been raised, Mr. Treleaven.

Mr. Treleaven: We have asked for counsel. I hope this Legislature never again puts this matter into a standing committee, into a political forum such as this.

Mr. Warner: Would I have heard those words at the Darcy McKeough kerfuffle?

Mr. Treleaven: I was not here, David.

Mr. Chairman: I have listened to almost everybody. There is not much more I can do now but to suggest to you that if there is a consensus, it is a rowdy one. It probably is that we come back here and sit on Wednesday. If you are of a mind that you want to sit in camera on Wednesday, we will accept a motion on that on Wednesday morning. You should take some time to think about whether you want to do that. The motion to go in camera would, of course, be in order.

I think we are at a stage where the committee will meet on Wednesday. We will be available for a meeting on Thursday. You could draft your report. The contents of the report are obviously matters that will be debated during those two days. It would assist me if I could tell Mr. Fontaine that he is invited to attend here on Friday. It seems obvious to me that we should indicate to the House leaders that we may need an additional day or so the following week. This may be a matter that can be resolved quickly. It seems to me you are quickly getting to a position where you are expressing an opinion one way or the other about whether you want to proceed, whether you want a judicial inquiry and how you want to proceed from here. That is roughly where you are.

It would not be of much value to continue with a great deal more debate this afternoon. If there are things you want to get on the record, I suppose we can do that, but that is roughly the way I read it. Most members have now had an opportunity to speak. I am not anxious to repeat that, but I suppose we will listen to some more.

Mr. Martel: I am not going to speak on the issue. Whether we like it or not, we are in for a session next week. I simply ask you whether we are going to try to finalize two things. I am not sure why we are starting with this kerfuffle before us if we are going to look at the material that has been prepared for us, and we hope to do so on Wednesday and Thursday. You might want to run at this whole issue, starting on Tuesday. That could be a day long of agony.

I need a decision on whether we can have Mr. Fontaine on Friday afternoon, in order to make a plane flight and get back here to hear him Friday afternoon, if it is agreeable to the rest of the committee to stay for Friday afternoon. I know of no way to get off the hook outside of telling a group that has based a whole conference on my being there for the whole morning--it is difficult to tell them on Friday the week before that I cannot be there. I am prepared to come back from Ottawa right away on Friday as soon as I finish speaking, after two hours at that conference, to get here for 2 p.m. or 2:15 p.m.

I have two concerns. On Wednesday we had hoped to start to look at the material prepared, to carry some of it into Thursday and to hear Mr. Fontaine. We have a hassle that is not going to go away and we are not going to resolve it in 20 minutes. I am not going to get into the argument of whether we should have a judicial hearing at this stage, but it could be a rather lengthy debate. You might want to consider that for Tuesday. I am not sure why we are moving to Wednesday. We cut the time short at the end.

Mr. Chairman: It is because I am trying to accommodate various members who have told me they have an engagement on Tuesday that is important to them and that, if possible, they do not want to sit on Tuesday. It is the same argument that you are making for Friday morning. I am trying to accommodate all these people. I think we can proceed setting aside Tuesday for other business, pick it up on Wednesday, go through Thursday and ask Mr. Fontaine to appear Friday afternoon, but it is obvious to me we should be telling the House leaders that we may need additional time the following week. I am prepared to proceed on that basis if I see a consensus on it.

Mr. O'Connor: If we need additional time in the following week in any event, can we not invite Mr. Fontaine at the earliest opportunity that week? As I indicated before, I have the same problems my friend has with regard to Friday.

How about Monday of the following week for Mr. Fontaine? There is not much difference between Monday and Friday.

Mr. Chairman: Except that he has indicated he could be here on Friday and I do not really want to get back into whether he can be here on Monday. If we leave it that we invite him to appear in front of the committee on Friday afternoon, there are a couple of days in the following week. We may be able to get the Monday and we may be able to get in a Thursday and a Friday meeting. I may be able to do that.

Interjection.

Mr. Chairman: There are things I would rather do. This has not exactly been my most pleasant summer on record either. I have set aside all kinds of events. I am risking the scorn of my constituency assistant, not to mention my constituents. I get raked over the coals by my wife on a regular basis. The only comfort is I know that everybody else is getting the same pain, so I live with it. All I am telling you is what is in the realm of the possible.

What is possible, it appears to me, is that we could sit on Wednesday and Thursday. We appear to be able to get a group together for Friday afternoon to hear Mr. Fontaine. We will tell the House leaders we may need additional time in the following week. If they agree, perhaps we can have Monday, Thursday and Friday of the following week. That may be possible. I do not know that until we consult them.

Mr. Warner: The following Thursday and Friday is our caucus. I hope you keep that in mind.

Mr. Chairman: Yes. That is my problem. To show you how devoted I am to the cause, even though I am chairman of the caucus, to resolve this matter I would give up a chance to go to Thunder Bay with my colleagues for two days.



Mr. Warner: Generous.

Mr. Chairman: What a guy!

That is what I see as being possible. I am searching for agreement on an ability on the part of the committee to do that.

Mr. Sterling: Would it be possible to survey the opportunity that Mr. O'Connor has suggested for Mr. Fontaine on Monday?

Mr. Treleaven: The Liberals have a caucus on Monday. Right?

Mr. Bossy: September 22.

Mr. Chairman: It is a fact of life. We have tried to accommodate everybody; I cannot.

Mr. Bossy: We would agree to your suggestion.

Mr. Chairman: Is there agreement? We will sit on Wednesday and Thursday of next week. We will ask Mr. Fontaine to appear on Friday afternoon. We will attempt to get additional committee time in the following week. It may not be possible. It may mean you have to come to some conclusions on Friday afternoon.

Mr. Warner: Could you ask Mr. Fontaine to come on Thursday afternoon?

Mr. Chairman: We have already asked him when it is possible for him to come and he has said Friday morning.

Mr. Warner: When you go back to him, you are going to say, "Could you come Friday afternoon?" Could you at the same time say, "Would it be possible to come Thursday afternoon instead?"

Mr. Chairman: I can ask.

Mr. Warner: I think that would solve a few problems for folks here.

Mr. Chairman: I can ask; it may be. We will sit on Wednesday and Thursday at 10 a.m. We will ask Mr. Fontaine whether it is possible for him to come earlier than Friday; if not, it will be Friday afternoon. Is that agreed?

Mr. Warner: While you are doing that, we are going to try to prepare as much as we can for the report, so we would finalize the thing after Mr. Fontaine has been here. To be candid, I think we should disavow ourselves of any thoughts about a judicial inquiry.

Mr. Chairman: Okay. Let us argue that.

Mr. Martel: Do not get back into it.

Mr. Warner: Let us finish the report and get the job done.

Mr. Chairman: Are we agreed? We will sit on Wednesday, Thursday and Friday of next week. We will ask Mr. Fontaine whether it is possible for him to appear earlier than Friday or Friday afternoon. We will alert the House leaders that we may need additional sitting time in the following week to complete the report, but I think they will give us one day at best.



Mr. Sterling: Since a lot of the discussion has centered on me, I would like to indicate to the committee that any considerations about my objectivity be done in the public forum and that they be done on Hansard, so that we are completely open about the matter.

The only thing I would say in conclusion is that I had one of two choices before coming here this afternoon and making the statement I did. I could have left it as it was, or I had the choice to do what I did. There was one compelling reason for that, and you may or may not accept it. It was the issue of fairness to Mr. Fontaine when he appeared, and those allegations were not my allegations.

Mr. O'Connor: Are we voting on that schedule? I cannot be here on Friday and I do not want to vote for it. You cannot accommodate everybody, but I assume we will get our opportunity. I think there are others in the same boat. For instance, what if Mr. Sterling is no longer a member of the committee as a result of our discussion on Wednesday and Mr. Martel and I are not here?

Mr. Chairman: Let me lay this out for you. We have dealt with this matter on one other occasion. This committee cannot say who sits on it and who does not. This committee has no right to exclude a member. If a member decides of his own volition that he should not sit, for whatever reason, the member may ask for a substitution. However, the committee cannot. The membership of a committee is established by a motion in the Legislature. It is provided for under the act that there may be substitution by the whips, but the committee itself cannot determine who does or does not sit on a committee. Each member of the assembly has a given right to participate in the proceedings.

I suppose you can put what would amount to some kind of sanction motion on the record if you like, but you have no right to declare that any member of the assembly cannot participate in the proceedings. We researched that thoroughly. In the first instance, when Mr. Brandt began by sitting on the committee, Mr. Brandt decided it was not appropriate that he continue as a member, but that was his right, not yours. That will not be a matter for deliberation here.

I have had a request that a motion be put to set the committee schedule for next week. I thought I saw a consensus, but I will ask someone to do that.

Mr. Warner moves that the schedule will be as I outlined: Wednesday at 10 a.m., Thursday at 10 a.m. and Friday at 2 p.m. We will invite Mr. Fontaine to appear on Friday afternoon at two. Those in favour of the motion? Any opposed to the motion?

Motion agreed to.

Mr. Chairman: The committee stands adjourned until Wednesday at 10 a.m. I remind Mr. Morin, Mr. Sterling and Mr. Warner that they have agreed to sit on a subcommittee on Tuesday at about 9:30 a.m. in my office.

The committee adjourned at 3:44 p.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

WEDNESDAY, SEPTEMBER 17, 1986

Morning Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Treleaven

Partington, P. (Brock PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, September 17, 1986

The committee met at 10:14 a.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We have a quorum. Let us get started.

We do not have compliance of quite all the House leaders in this, but it would appear we are likely to get permission to sit next week. We are still debating which days. Monday appears possible. Thursday and Friday may be possible, although the New Democrats have a caucus meeting in Thunder Bay on those two days.

The Liberals have a caucus meeting, but I am told it will be on Monday evening. The one day next week that appears to be available for us is Monday. We will try to clarify the rest of the schedule. It may be possible to go into Tuesday, Wednesday or Thursday; I do not know. We will try to clear that for you. Mr. Fontaine will be in attendance at two o'clock on Friday.

Is there any further business before we get started?

Mr. O'Connor: May I raise with the committee a question about Friday afternoon and Mr. Fontaine's attendance, as I did with you prior to commencing this morning? As we indicated last week and as I mentioned to you this morning, our party is having a general meeting, starting Thursday evening, which will be well into its schedule all day Friday. Now that we have Monday available to us, would it be possible to reschedule Mr. Fontaine for Monday morning?

The feeling is that there is very little difference between Friday afternoon at two and Monday morning at 10. I assume that we would not be using the weekend for writing the report or meeting among ourselves and that there is no difference between those two days. I can also advise you that there is a feeling among some of our guys that they cannot be here anyway. They will be on panels and so forth at the general meeting and may not be able to be available on Friday afternoon. It may suit the purposes of some other members of the committee, but it would significantly inconvenience us.

I point out only that the general tradition of the House and its committees has been that when the parties are meeting in caucus or at annual meetings, the other parties show some courtesy and forbearance in not holding significant events during those times.

Mr. Chairman: I agree. Let me put it this way: If you would leave it with me until the end of the day, we will try to sort it all out. If it is possible to meet when it is not inconvenient to anyone, we will try to adhere to that. I am trying to put out some warning signals that it is getting very complicated. As we proceed, we may be in a position of having to say to people, "This is going to have to take priority over some other event."

As it stands, it may be possible to ask him to come on Monday instead of

on Friday. If you tell me what the problems are this morning, we will try to arrange it so that we can finalize it by the end of the afternoon.

Ms. Hart: To add to the pot, as I understand it, Mr. Fontaine, who is out of the province, rearranged all his flight schedules and everything in order to be here on Friday.

Mr. Chairman: Yes.

Ms. Hart: I wanted to make sure you knew that.

Mr. O'Connor: If it can be arranged, it may be more convenient for him to complete his holiday and come Monday.

Ms. Hart: On the other hand, he may have forgone three or four days of his holiday to be here.

Mr. Warner: After we discussed this last week, my colleague from Sudbury arranged to come from Sudbury to Toronto, from Toronto at 8 a.m. to Ottawa and back here at noon to be here on Friday afternoon at two, and cut short the convention where he was a guest speaker, specifically on the understanding that is how we would be proceeding. Similarly, Mr. Fontaine has made his arrangements.

Mr. Chairman: Yes. It is very tight. It is getting very complicated.

Mr. Warner: What do you think we are looking at--two hours? From 2 p.m. to 4 p.m.?

Mr. Chairman: That would be most likely.

Mr. Warner: That would be the extent of the inconvenience to you. Where is your meeting?

Mr. Sterling: Hamilton. That afternoon is right in the heart of our annual meeting.

Mr. Warner: I know it is not easy.

Mr. Chairman: We are all having scheduling problems. We will try to work them out as best we can.

Mr. Martel: Let me put the rest of the cards on the table. The following week, if we do not finish by Wednesday, we are supposed to be in Thunder Bay on Thursday and Friday and Sault Ste. Marie on Friday, Saturday and Sunday. If you want to complicate the issue--

Mr. Sterling: Who would have known we would go on this long?

Mr. Martel: We entered into commitments months ago based on what could be done.

Mr. Sterling: After Mr. Fontaine appears, the committee may decide it wants to hear other people.

Mr. Martel: Are you kidding?

Mr. Warner: No. We are winding this down.



10:20

Mr. Chairman: We will take that under consideration and try to report back to you in the latter part of the afternoon. I am trying to warn you that the normal convention of meeting when there will not be a conflict with other things is becoming very difficult to adhere to. We may soon get to the point where people will have to decide on priorities. If your priority is elsewhere, it will be elsewhere. There is nothing I can do about it.

I am trying my best to accommodate everybody but I am working around three different sets of timetables. People have already begun to rearrange timetables, change flights, change travel arrangements and run up astronomical sums of money, I am sure. Pretty soon we are going to hit the point where that may become a countervailing thing. I will have to put it to you and you will have to decide, perhaps by vote, when you sit and when you do not.

We do have a couple of days, as we indicated last week. We would like to begin putting together the component parts of the report. I am assuming that what you want to do is draft as much of the chronology and facts as presented so far and get agreement on that. You will hear Mr. Fontaine and allow him the opportunity to reply and clarify any discrepancies that have occurred. After you hear from him, you will then move to the final section of the report, a conclusion, if you like.

We have a couple of days when we can draft the main part of the report, deal with motions and do whatever we want to do. We will then be in a position to hear Mr. Fontaine's reply. It is conceivable that you can move to the conclusion part and allow him to see that, or pass some motion of sorts and, in addition to replying to other discrepancies, to reply to that as well. I am in your hands on how to proceed from there.

Mr. Martel: I am sure there is going to be reference back to certain parts of Hansard on some of the issues the Conservatives are going to raise on Friday afternoon. I wonder whether, in the interest of time on Friday, they can indicate the things they are going to raise and the context in which they are going to be taking them from Hansard; for example, the suggestion that Mr. Fontaine was perhaps less than truthful when he responded to Mr. Sterling. I heard Mr. Sterling make that comment.

I wonder whether they are prepared to share that with us once the hearing starts Friday afternoon, so that we will not have to send staff out to run off things or look for them and so that we will know the context they are in at the time we have the discussion. I think it would expedite things Friday afternoon, if that were possible.

Mr. Chairman: Is that reasonable? Basically, all that he is asking is that if you want to make reference to documents the committee has, you indicate to us prior to the meeting. We can simply do the duplication work prior to the meeting. I guess it is tantamount to giving notice that you intend to raise a particular matter or use a document.

Mr. Sterling: We try to do that as often as possible. Our only reluctance on that one is that every time we would pull a document out of the files, the media would say the Tories introduced a document that we allegedly dug up somewhere. All we are doing is going through the files and using them as digests.

Mr. Martel: If you do not want to do that, we can ask our research



director. I think he has some idea of the areas that are contentious and that there is obviously going to be questioning on. I can give the example of the forest management agreement and Mr. Fontaine saying he had not spoken to anyone. In that context, where is that from? We might have some of it ready.

I do not presume we are going to cover the whole field Friday afternoon, but there are going to be specific issues that Mr. Fontaine will want to present. I suspect there will be questions in areas where people have a problem with perception or reality. Those are the areas that we will ultimately deal with.

Two hours are going to go by pretty quickly. If you want to drag it on into the evening, that is the day it is going to happen, unless we have some preparatory work and material ready for us, so we stick to. I am not saying it is an edict we stick to certain things, but if we had those documents ready it would be much easier to cope with Friday afternoon.

Mr. Sterling: We will try to assist you as much as we can. Some of the times one question leads to another question, where you remember a document somewhere. You might have it in your file and you might not have 20 copies of it.

Mr. Chairman: I agree it is reasonable for us to ask people to give us notice of documents that are going to be used, whether or not they are in the package, so that we all have the opportunity to deal with the information at the same time. We will not be able to adhere to that fervently, but if the intention is to use a document and quote from it widely, let the clerk know ahead of time and we will have copies available for the members.

Mr. Sterling: I do not know whether that is what the member for Sudbury East (Mr. Martel) meant. If I refer to a document in a question to Mr. Fontaine, you want enough copies so everyone can pick that up.

Mr. Chairman: Yes.

Mr. Sterling: We will do it as much as we possibly can.

Mr. Chairman: Are there any other procedural matters?

Mr. Warner: We have three or four basic elements, one of which is the draft report prepared by the staff. We have not had an opportunity to go through this as a committee. Since it is drafted as background material, it would be a wise idea to go through it and discuss it, okay it, make changes or whatever.

Second, we also have from the staff a legal opinion with respect to sections 10 and 11 of the Legislative Assembly Act. It would be appropriate for us to review that as well and to determine whether we wish to have it as part of our report.

Third, the committee has a motion that has been tabled, which I placed because I felt it would be a reasonable and acceptable conclusion to our hearings, to the inquiry. Obviously, as a motion it is open for discussion and I am always open to be persuaded that certain sections should be dropped, changed, added to or whatever, but basically it would be the formation of the conclusion of our inquiry.

I ask the committee members to reflect on this, which I think makes

sense. We can put together a report, i.e., the backgrounder, the legal opinion and our conclusion, whether it be my motion or some derivation of it, and have that prepared. If we look at the process, this is what we have done: We have heard from Mr. Fontaine. We have heard from all the principal players in this. We have had the witnesses. We have gone through and completed the process, save and except for our offer to Mr. Fontaine to reappear with an opportunity to answer the various allegations and discrepancies that have come forward in testimony.

Suppose for the moment we are going to do that on Friday afternoon. All that would be left at that point would be to make whatever changes are necessary to the conclusion, which we have reached. The timing would be fairly good. If we hear Mr. Fontaine on Friday, the members will have the weekend to think about what they have heard, compare notes and so on. On Monday, we could take a final run at our report to see whether we could finalize it.

Mr. Chairman: We have already received these documents and Mr. Warner's motion. Before we begin, is there anything else you would like to see prepared for your consideration in drafting a report? One thing occurred to me. Merike Madisso gave her legal opinion on sections 10 and 11 of the Legislative Assembly Act. If you want her to do a similar kind of framework document for the conflict-of-interest guidelines, that might be useful. She may need a few days to draft it. If you want that and give us some indication now that it will be useful to you in your deliberations, some indication whether you want it included or whether you agree with it, perhaps we can get her to start on it. Is that reasonable? She gave a legal opinion on sections 10 and 11.

10:30

Mr. Sterling: I know that.

Mr. Chairman: I am suggesting it might be useful to you to get the same kind of document prepared, a legal opinion on his relationship to the conflict-of-interest guidelines. In other words, do the same thing on the guidelines as was done on the Legislative Assembly Act. You do not necessarily have to agree with it, but it would provide you with a legal framework on which to base your argument.

Mr. Martel: I have reservations about that. It puts her in an invidious position, because we have not told her the direction we think we are going. If we ask her to do it, she is then judging, and I do not think she will be able to do that.

Mr. Chairman: Let me try to clarify this.

Mr. Martel: Run it by me again.

Mr. Chairman: For example, with the legal opinion on the Legislative Assembly Act, that is just what it says--one legal opinion.

Mr. Martel: Right.

Mr. Chairman: That should be part of our deliberations, but it certainly is not all. I am suggesting it may be useful to have that written legal opinion on the matter. That does not preclude any decision made by the committee on it. It is a framework, it is a guideline, it is a benchmark; it is all those things, but it is not the committee's finding on the matter.



Mr. Martel: I understand that. Lest she be seen as responsible for the final outcome of what we are going to decide--

Mr. Chairman: No.

Mr. Martel: --it worries me to put her in that sort of position. That is the position I make.

Mr. Chairman: Is it a useful exercise to go through?

Ms. Hart: I am trying to make up my mind about this. I am obviously used to legal opinions, but it seems to me that in the guidelines we are not dealing with a statute. We are dealing with a document written in layman's language and we are able to deal with that language without putting a lawyer's imprimatur on it. I share the concern about a legal opinion on the very issue we have been asked to decide.

Mr. Chairman: Okay.

Mr. Sterling: The other thing is that if you read the last paragraph of the guidelines, it says this is sort of a general thing, but you should be a lot sharper than the general.

Mr. Chairman: The caution I would put on you is that a legal opinion on the matter is certainly not going to be definitive; it is only going to provide you with an indicator of whether disclosures were made, whether documents were filed or whether something followed the letter of the guidelines. It will not give you any judgement call on whether someone actually broke the spirit of it and, as Mr. Sterling says, the last section of it really is all-inclusive; it says "and everything else." Therefore, legal opinion or not, you are going to be caught in a position where you have to make the judgement call at any rate, and the legal opinion would serve only to frame that, I suppose.

Mr. Martel: To clarify my concern, you said she would not put a final opinion. If she is going to put the material together for us without any opinion, that would be helpful. I am trying to keep the responsibility away from her, or any semblance of her appearing to direct us on the final conclusion, or her own personal opinion. I do not want to put her in a position where she writes, "I think there is conflict of interest here, here and here." Everything else leading up to it and putting that all in order would be helpful, but as you have just said in winding up, you are not asking her to put a legal opinion to it, a concluding paragraph.

Mr. Chairman: Basically, the useful purpose would be simply to have as a matter of record whether things were filed on time, whether appropriate documents were filed, when they were filed, what was disclosed and when it was not, so to that extent it might be of some use to you. I do not know whether we want to go much further with this.

Ms. Hart: Maybe we are dealing with differences in terminology. What you have just described to me is a chronology of events where I suppose some judgement is brought to bear because you put in the time limits in the, but it really is a list of the facts that have come out in this inquiry, including the requirements in the guidelines. That I do not have any difficulty with. I share the concern about legal opinion as to whether the guidelines were breached.



Ms. Madisso: In terms of what you have just raised, Ms. Hart, you already have that in the draft report we gave you. You have the factual chronology. The other alternative is what in fact would be my opinion on whether the guidelines were breached. You already have one. There is no alternative left.

Mr. Martel: Here is just a string. What has been prepared and well done is the material up until the time this was prepared. It does not make any attempt, however, to pull--

Mr. Chairman: To judge.

Mr. Martel: This does not even do that. It is a straight chronology of events.

What I see, Merike--or you are suggesting, Mr. Chairman--is that in that there are some issues that could be in conflict with the guidelines. If I judge and interpret what you are saying correctly, you want to pull all those things together, not just strictly that someone held a share in Golden Tiger or the Moosonee railroad, the things that fit around or deal with the two main issues in this matter and the relevant guidelines that deal with each of those, without rendering a final conclusion.

That is vastly different to what we have here. It is bringing the arguments together for the various decisions we will have to make about Golden Tiger, the FMAs or all the other junky little pieces of holdings that were not revealed at the beginning, to try to put a focus on them. Otherwise, we will run all over the ball park.

Mr. Chairman: That is precisely my concern, that at some time we need some parameters within which judgements will be made. It is not our job at this time to rewrite guidelines or to address in a larger sense conflict-of-interest legislation, regulations, whatever. We will be doing that when the Aird report comes to the committee.

There have to be some parameters upon which the committee bases its judgement, and it will be the committee's decision. For example, we had no hesitation in responding to Mr. Sterling's request for legal opinion on the two sections of the Legislative Assembly Act. It struck me that was useful. It does not necessarily mean I accept the opinion or that is my judgement on the matter, but I found it helpful to have a legal opinion drafted on that matter in our hands. It is something that will assist the committee in arriving at its conclusions, but it is not saying one lawyer's opinion is going to be the final be-all and end-all of the committee's report; so I have no problem with it.

Mr. Sterling: Maybe Merike could help us out here. Is there any case law dealing with conflict-of-interest guidelines of which you are aware?

Ms. Madisso: I am not aware of any. There may be in other jurisdictions, where there is actually legislation in place. In regard to simple guidelines not enacting legislation, I do not know.

Mr. Sterling: The problem with asking a legal opinion in this area, as Ms. Hart has pointed out, is that the forum for the decision is the forum of a parliamentary committee; therefore, the decisions are decisions based on fact and decisions based on a political reality of the situation at that time,

and not strictly an interpretation of a sentence, a statement, a rule or whatever. To ask an opinion, therefore, I guess you go to the simple language of the conflict-of-interest guidelines and take each fact case that was that was presented to you by the committee and say, "I think it should be in," or, "It should not be in." I do not think that will serve any useful function, because then you are just playing with words.

10:40

Ms. Madisso: That is what I would do.

Mr. O'Connor: I agree with most of what has been said. I do not think we should ask Merike for an opinion; that is up to us. It is our job and it is our responsibility. What I would ask her to do, and I think we should ask her, is to supplement this fact statement. It is excellent as far as it goes, but it was concluded in August and we have heard several witnesses since then. I presume that is in the works, is it?

Mr. Chairman: Yes. Obviously, we would want a second set of--

Mr. O'Connor: Or just a continuation.

Mr. Chairman: Yes, just a continuation on this.

Mr. Sterling: I think it would be interesting for me to know, in terms of the other conflict-of-interest guidelines that are in place across our country, if given this set of facts, Mr. Fontaine would have been in conflict there. Do you not think that--

Mr. Martel: No. I do not think we can put Fontaine in the position where we are going to judge him by guidelines that--

Mr. Sterling: No. I just was wondering in terms of looking at the guidelines--

Mr. Chairman: We have copies in our material--

Mr. Sterling: Yes, I know.

Mr. Chairman: --of every other province in Canada and how they have gone about it. That is background material for you to look at, but I would caution that that really cannot be the standard upon which the judgement is made.

Mr. Martel: Can we go back? What I would like to see Merike do is to try to bring the relevant issues and the facts that pertain to them, to try to give us some focus on the various issues as she perceives them, at least give us a starting point to work from. I can see us all over the ball park if we do not have something before us. We are going to be groping like mad and everybody is going to want to put in a sentence. Have you ever tried to write a report with 10 or 11 people all trying to add a sentence here, there and everywhere without even a starting point? What I am worried about is trying to bring the issues into some focus. I think that has to be done.

Mr. Chairman: I think we are agreed that we will ask for a continuation of the draft report.



Are there other matters you would like done that would require a bit of notice to do, for example, drafting the rest of it?

Mr. Sterling: Just one thing. I am not in any way being critical of Ms. Madisso's opinion, but it is quite important for me--I am not sure in these hearings or the next ones--to understand fully what sections 10 and 11 of the Legislative Assembly Act mean. From reading your opinion and from what I heard from Blenus Wright, there is a difference of opinion.

Ms. Madisso: Yes, there is.

Mr. Sterling: I would like you to request, Mr. Chairman, Blenus Wright's opinion of section 10 and 11 of the Legislative Assembly Act. I do not know what the propriety is. I do not think he is a crown law officer.

Mr. Chairman: I am trying to consider whether we have any reasonable grounds for making that request other than what he said when he was in front of the committee. What I would be prepared to do on my own hook is to ask him if he would be prepared to provide the committee with his assessment--in other words, to give us a full written opinion to complement the verbal opinion he gave when he was before the committee. It would seem to me that is not an unreasonable request and we will try to do that.

Mr. Martel: What worries me is that we have one opinion that says no, and you are saying Wright, because I missed that, believes the opposite.

Mr. Chairman: I think what he is saying, Elie, is when Mr. Wright was in front of the committee, he gave testimony on his opinion on the matter. He admitted in front of the committee that there would be different opinions on how those sections of the act would be interpreted. What we would be doing is simply offering him an opportunity to expand upon that in written form.

Mr. O'Connor: I think his opinion is particularly important because it was he with whom the ministers were dealing when attempting to comply with the guidelines and he was therefore advising them, based on his opinion, as to how to comply. That perspective would be particularly useful to us.

Mr. Chairman: The reason I am a little bit hesitant is that he is a senior civil servant who has occupied his position for some time. The reluctance I have is whether we are really asking him to give a written opinion on whether or not he did his job properly. That is my concern.

If he feels reasonably amiable towards the concept of providing us a formal opinion in a theoretical, isolated sense, we could probably do that. I thought he was quite frank when he appeared in front of the committee. You are free to read the Hansard of the day and you will, in effect, get the same thing. We are simply offering him an opportunity to do it in perhaps a more precise and concise way. If he said, for example, "I do not feel free to do that," I do not think I could push the matter very much further.

Mr. Warner: I agree with you. Actually, if he agrees to give us a written opinion, I would prefer we have the written opinion at the time we receive the Aird report and are given the task of taking a look at the guidelines.

Mr. Wright was before us, he gave his testimony and we asked him questions. We have the information from him and we have a legal opinion.



Naturally, we could run all over the city and get opinions from 100 different lawyers. What I would not want is for Mr. Wright to feel somehow compromised in a situation or feel that the committee is attempting to exert pressure on him. I would like a written opinion from him, but I would like to use it when we go through the next stage of the exercise, i.e., looking at the conflict-of-interest guidelines after the Aird report has been given to us.

Ms. Hart: If my memory serves me, I believe Mr. Fontaine said he had not dealt with Mr. Wright at all. I think he said he had never met him.

Mr. Chairman: Yes. To be a little more precise about it, Blenus Wright was the senior civil servant who was responsible for filing all documents in the final sense with the Clerk's office. In that sense, Mr. Fontaine did not use him as an adviser or talk to him a great deal, but he was the designated civil servant who received the documents and transmitted them to the Clerk. It is in that sense that he had a capacity. In the end, all members of the cabinet dealt with Blenus Wright. They provided their documents to him.

Ms. Hart: I appreciate that, but from the flow of the discussion, it seemed that we were asking him because he was the one who was the designated bitter, if you like, and Mr. Fontaine was dealing with him; whereas we heard from Mr. Fontaine that he had never met him.

Mr. Chairman: Yes, which is quite likely.

Mr. Bossy: Yes. I believe Blenus Wright also said--I am trying to get this pieced together--that he, having been involved previously with the conflict-of-interest guidelines, made suggestions for changes. He was directly involved in the changes by his suggestions, not necessarily by sitting down and being present when the Premier's guidelines finally came down in September. His suggestions were funnelled into the system and someone picked them up from there, whether it was Ms. Eberts or whoever it might have been, and followed through. The final new guidelines, or the Peterson guidelines, if you want to call them that, the new government's guidelines, flowed from some of the suggestions he had made on previous occasions to another government and then to this government. That is where they were picked up.

I feel uncomfortable with asking him for a legal opinion, except for the fact that he would only say: "I suggested this previously and I suggested it to the new government. They have implemented the new part within the guidelines." That seems to be his only role in a direct way, except that he continued acting and receiving the information.

Mr. Chairman: I have expressed my reservations about it, but I would be prepared to ask him to provide us with that opinion. You can do with it whatever you want if he chooses to do so. I just want to make clear to you that it is not attached in any way, shape or form to this committee and we have no real right to demand anything of him. If he chooses to provide us with an opinion or a document, fine. If he says, "No, thanks," we will have to leave it at that. Basically, you have his opinion on record.

Mr. Warner has suggested a way to proceed. I have not heard any objections to that.

10:50

Mr. O'Connor: I do not want to object to that specifically. Perhaps this is the right time to raise the question of our proceeding in camera or

otherwise. It is my first experience on a committee of this type, but I understand the usual procedure when drafting reports of this nature is to do so in camera to permit the freer flow of opinion and not have it on the record. I am wondering if the committee should at least consider it.

Mr. Chairman: Mr. Morin raised this point last week. I have had a chance to think about it over the weekend. Frankly, I want you to proceed in this manner. At some point, very quickly, somebody puts a motion that the committee goes in camera. Before you put that motion, I want you to consider some problems that I personally have been having with that process.

The traditional way of proceeding, when a committee is drafting a report, is that the committee meets privately. This committee has dealt with the premature disclosure of reports on several occasions. I have had some difficulty with the fact that committees have begun to go in camera, theoretically to discuss privately the preparation of a report. Increasingly they meet privately to consider the report, and then one or more members of the committee promptly go outside and discuss the day's proceedings with the media. That being the case, what gets reported is one person's opinion on what happened that day in the privacy of a committee. That is not a very accurate portrayal.

To date, we have stayed on the record throughout the entire length of these proceedings. Sometimes it has been a little uncomfortable, but it has worked. At the end of the day none of us can say a biased view was given. The press or anybody who cares to can sit and watch the proceedings and form opinions; it can all be recorded if that is what is wanted.

I am trying to point out that I am a little bit uncomfortable. If you want to go in camera, then I am going to insist that it is indeed in camera and that you do not go out and give your personal synopsis at the end of the day.

Mr. Martel: What are you going to do, use a sledgehammer?

Mr. Chairman: I am just going to point out that this is going to be very difficult to do, because at the end of the day somebody is going to want to know what happened in committee. You will put me in a very awkward position. When the Globe and Mail, the Toronto Star or the Toronto Sun asks you at the end of the day, "What happened?" you are going to have to say to them, "I am not going to talk to you." I am not a betting person, but I will bet that will be not only hard to do but also virtually impossible to do.

Mr. O'Connor: If they know the rules, they will not ask us.

Mr. Chairman: Sure. You will then come back in here the next day and I will be faced with all these bitter arguments about how somebody gave a perverted opinion that I do not support of what transpired during the course of the committee.

When you put your motion, please consider the following things. I will be in very deep trouble personally if at the end of the day we have met in camera and somebody goes outside and gives his opinion on the matter, because we will have to come back in here the next day and try to sort all that out. It is going to be really hard to do, and I am going to be really obnoxious and nasty if you decide you want to go in camera but at the end of the day it is open season.



I am asking you to make up your mind based on those considerations. I will not look kindly on members of the committee who say now they want to meet privately and discuss this report, but at the end of the day they feel quite free to go out and blab all over the place. It will be considered a no-no. Let us entertain your discussion and decide what you want to do.

Ms. Hart: I would make a motion that the consideration of the report be in public. I bring that as a motion because the traditional manner of dealing with reports is for the committee to go in camera. I share your concern, and I think the way to alleviate that concern is to hold the consideration of the report in public.

Mr. Warner: First of all, traditionally what we try to do before motions are placed is to have a discussion to see whether we can reach a consensus. It may be that, after the discussion, no motion will be placed and we will just continue business in the normal way.

I have one comment. I would think it a passing strange irony if the committee to which all inquiries are sent when reports are leaked out of other committees did itself leak a report. Would that not look cute? We have had two or three already that have been referred to us because they have been leaked, and this committee was supposed to investigate and find out how the leak occurred and how to stop it.

You can bet your last dollar that if we go in camera, what we are discussing will show up on the front pages of the newspapers, etc.; then whatever credibility we ever had as a committee trying to develop a proper way to proceed in this place will be blown right out of the water. I do not think it is a healthy thing for us to be doing, quite frankly.

Mr. Martel: I am one of those who, on every occasion when we have had one of those reports sent us, have moved that we not try to find the culprit, because it would mean bringing in the Federal Bureau of Investigation. We should get the Prime Minister of Canada to help us these days again, as he did on the weekend.

That aside, you cannot get to the bottom of it, and for us to go in camera--I have watched the other inquiry going on, and I do not know who the hell is talking, but every day there is a report out of that committee about what is going on. Part of it was supposed to be in camera, and it is on the front page of every newspaper. Why go into an in camera meeting when someone is going to go out and talk anyway?

I was just talking to my colleague from the Thunder Bay area. When the MacDonald committee did the Ontario Hydro stuff, every last report was done in the open. It is pretty hard to leak a report. In fact, you will find that the press will not show up half the time if it is in the open. It is when it is in camera that they want to know what is going on. If it is open and frank, they will stay away because they can always read it in Hansard at some other time and catch up; so it does not become as burning an issue.

When it is in camera, though, for some reason, it is. Someone is going to talk; someone is going to tell, off the record, what is going on, and it is going to appear. If it is going to appear, it might as well be factual, right on and in the open. That way nobody can say, "An undisclosed member revealed that...." When it is in the open, it is in the open and they will hear a variety of opinions.



That is the way we should proceed. You are also on the record. When you state an opinion during the debates or the discussions, you might be a little more careful in the way you talk than if you were wide open and free to swing from the rafters. We should do the whole thing in the open and come to the conclusions. The press can report what they want to report and we will decide what we have to decide.

Mr. Sterling: I have no objection to doing it in the open. My problem is when we are prewriting a report before Mr. Fontaine comes back to the committee. It is unfair in two ways. You might say this is fact or this is not fact, but when you are finding fact, you are expressing conclusion as well. You are saying, "This witness said that; that witness said that, the words meant were this," or whatever. I want to hear how far we can go along the road until after we hear what Mr. Fontaine has to say.

11:00

Mr. Martel: He cannot alter the facts.

Mr. Warner: We can accomplish a bit. There is a lot to be done. I am suggesting we get at it and get as much of it done as we can. You have to remember that witnesses normally come before the committee once. Because of the circumstances and the fact that Mr. Fontaine appeared at the outset, we have offered him the opportunity to reappear. We did not summon him--witnesses are usually there once--but we invited him. He could decline the invitation, in which case we would simply do the report.

I am suggesting we start on that process and do as much as we can. After Mr. Fontaine has given his testimony, if we want to change certain parts of it, fine; no problem. We have spent a lot of time at this, probably longer than was necessary. We are at the point now where we can finalize it. Let us get the job done.

Mr. Chairman: Am I wrong in reading a consensus that you want to stay on the record? Are we agreed? Okay.

The next task seems to be that we need to go through the draft. It would be of assistance if, by the time Mr. Fontaine appears, the committee has made clear those areas where it feels there are discrepancies; in other words, the areas it feels he must address. It would help to go through the draft report to delineate problem areas that members of the committee have found, so that by the end of his testimony at least he will have had the opportunity to know what this committee thinks is or may be wrong and a chance to respond to that.

I think we all have a set of areas where we see some discrepancies or something that does not quite fit. It would be helpful if we could say to him: "Mr. Fontaine, these are the prime areas of concern of the committee. Please address yourself to them." At the end of it, there would be no surprises, so to speak. Maybe we can do that as we go through the draft report.

Does everyone have a copy of this? I take it the first two, the statements of Mr. Brandt and Mr. Fontaine, are not very contentious. Is there any discussion or argument there? These are rather straightforward.

Mr. Bossy: I have just a comment. As we look at part I, the opening statements of Mr. Brandt and Mr. Fontaine, an unusual situation occurred because we had the accuser and then the defendant appear immediately. That is not done under normal proceedings. I believe a defendant usually waits until after he has heard all the evidence.

I am sure we are grappling a little bit with the agenda we are looking at. If we break down the statements that were made in Mr. Brandt's presentation, those were the accusations we had to deal with first. We can use that as a basis in the different areas, because evidence has been produced afterwards. We can use that as a basis for an agenda of how we deal with it and add on because of other things happening subsequently.

Mr. Martel: I thought the consensus we had was that the next step Merike would take would be to bring the areas of contention together. That is what you are asking for, is it not?

Mr. Bossy: Yes; it is an agenda to be able to work at. We can go through this, even though it will vary as we go down, or we can expand on each area of the concerns that were brought in the initial hearing.

Mr. Martel: I thought that was what we had agreed to get Merike to do, so we have the parameters within which we are going to operate for each of the areas in contention. I think she was going to try to do that for us and try to relate it back without forming an opinion for us.

Mr. Bossy: Okay.

Mr. Chairman: Let me proceed in this manner. Is there anything in Mr. Brandt's statement that anyone finds contentious? To be frank about it, when I asked John, Merike and Lynn to proceed in drafting this, I said to them: "What I want to see is uncontested facts. If you are not clear, if you think it might be contested, do not put it in." So the onus now falls on members of the committee. If you think an allegation was missed in this summary of what Mr. Brandt said, tell us now and we will put it in. If you think Mr. Fontaine said something you want to see included, do that now as well.

I would like to say too that in going through it in this manner, I do not want to preclude somebody saying tomorrow morning, "Listen, I forgot this; I reread the Hansard of his statement, and I want that included too." It is not final until the fat lady sings, so to speak.

Mr. Martel: Why not go through them item by item and just tick them off? Like you, I do not want us running back over and over again. If people want to agree with I, that it is a fact, at least let us get some--

Mr. Chairman: Okay. Let us start with Mr. Brandt's statement then.

Mr. O'Connor: Can I ask a question? It is probably inevitable that we are going to go back and forth, but we will try not to. Are we deciding now whether this is what Mr. Brandt's statement said, or are we deciding whether that went far enough in the light of subsequent evidence?

Mr. Chairman: At this point in time, this is meant to be the exact allegations according to Andy Brandt as he first put them. You may want to put in other words subsequently. Are we generally agreed that is Mr. Brandt's statement before the committee?

Mr. Sterling: Did Mr. Brandt refer to that general catch-all clause in his opening statement?

Ms. Madisso: I do not recall that he did, but let me look.



Mr. Sterling: The catch-all phrase in the guidelines; the one that says, "These are a bare minimum, and if there is an appearance of the conflict you should guide your business affairs as such." In other words, throwing the burden to some degree back on the particular cabinet minister, notwithstanding the technical--at any rate, if it is in there, I would like it--

Ms. Madisso: Yes, it is.

Mr. Chairman: The second-floor caucus office has caught fire again. We are safe.

Mr. Martel: Some of the press releases are pretty hot.

Mr. Sterling: Some are too hot.

Interjection.

Mr. Warner: He had nothing to do with it. He was right here in the room.

Mr. Chairman: I do not recall that. The closest I could come to that would be on the bottom of page 2--

Ms. Madisso: On page 7 of Mr. Brandt's statement, he does refer to that clause; so you want that included.

Mr. Sterling: I would think it should be; I am not sure whether it should be in the form of a question. How did he use it? What were his words?

Mr. Eichmanis: The last paragraph of Premier Peterson's guidelines reads, "These guidelines are not exhaustive, nor could they in reality embrace all possible situations representing or suggesting a conflict of interest." So he just quotes from the guidelines.

Mr. Sterling: He makes it a statement?

Mr. Chairman: At the bottom of page 2 we can put in an additional section which would essentially just quote his words.

Mr. O'Connor: Something to the effect that Mr. Brandt, in quoting from the guidelines, raises the general question of the overall intent of the guidelines.

Mr. Chairman: Are we agreed that this would be included in Mr. Brandt's statement? Okay. Any other matters on that? Okay. Can we move to Mr. Fontaine's initial statement?

Mr. Martel: In that initial inquiry, did Brandt not mention the FMA at all?

Mr. Chairman: I believe that is in there.

11:10

Mr. Martel: I cannot find it here. Pardon me for being--

Mr. O'Connor: It is the third paragraph on page 2.



Mr. Chairman: The third paragraph on page 2 goes with the FMA.

Mr. Martel: Okay. I even have it outlined in yellow.

Mr. Chairman: Is there anything else on Mr. Brandt's statement? With the one addition, that will stand. Anything on Mr. Fontaine's statement?

Ms. Hart: On the top of page 4, it says Mr. Fontaine also owned 20,000 shares in Wheeler Martin. Looking at paragraph 40 of his statement, I am not sure that is right. My memory is not serving me, but I do have the paragraph:

"My lawyers were also advised that in 1984 Wheeler Martin issued 20,000 shares to my name and to Paul Martin, as well as to others. I had never until last week heard of those shares. In fact, Mr. Sullivan has also advised my lawyers that the share certificates, though issued, were never delivered to me or any other shareholders. These shares have no value and no market. However, Mr. Sullivan bought them back at one cent a share, which is equivalent to the return of my initial \$200 investment."

I do not think the statement that he owned 20,000 shares is fair.

Mr. Chairman: How would you like it worded?

Mr. O'Connor: I have some difficulty in that, as I understand, all that Ms. Madisso has tried to do on pages 3 and 4 is to summarize Mr. Fontaine's statement. She has not gone into the cross-examination of him--whatever he said during the course of those two or three hours--and I think Ms. Hart was excerpting from--

Mr. Chairman: To make the distinction, it is a fact that he owned the shares. You may want to elaborate on the conditions of how those came into his possession or how he owned them. The fact is that he owned the 20,000 shares of Wheeler Martin. He may never have actually gotten the physical shares, they may not be worth anything, and we would be prepared to listen to any wording suggestions you care to make.

Ms. Hart: To clarify, I was not reading from the cross-examination, I was reading from the statement. I am not a corporate lawyer, I do not know, but what I have a concern with is that if you do not know about shares, you did not purchase them yourself and they were not issued, how can you be said to own them?

Mr. Chairman: Because they are in your name.

Ms. Hart: On July 23, 1986, even if he was said to have owned them, they had been sold.

Mr. O'Connor: That is the point I am making. If we are dealing only with the statement, that is one thing, but I can see that section on Mr. Fontaine's reply going on for 10 more pages because of what he said during the course of the cross-examination. Are we to take all that as his reply?

Mr. Chairman: No. At this point we are simply dealing with his statement, not the cross-examination or other testimony.

Mr. O'Connor: It is a minor thing, because the Wheeler Martin shares are not important in the overall context of things, but just to make the

point, that statement has to stand as is, because on July 23 he did own 20,000 shares. Whether or not he knew it is another issue. That relates to cross-examination where he gave an explanation and said he did not know.

Mr. Sterling: What did he say about those shares? Did he say he owned them or that he did not?

Ms. Madisso: Would you like me to read it for you?

"However, my lawyers were advised last week by Paul Martin and Patrick Sullivan that the \$200"--which he refers to above--"constituted, in fact, the payment of a dividend resulting from a sale of claims. My lawyers were also advised that in 1984 Wheeler Martin issued 20,000 shares to my name and to Paul Martin, as well as to others. I had never until last week heard of those shares. In fact, Mr. Sullivan has also advised my lawyers that the share certificates, though issued, were never delivered to me or any other shareholders. These shares have no value and no market. However, Mr. Sullivan bought them back at one cent a share, which is equivalent to the return of my initial \$200 investment."

Mr. Chairman: If it would assist you, we could simply let the statement stand and quote what he has said. It is on page 13 of his statement. He has it listed as section 40. You would be putting in here the circumstances, and at this point, since we are dealing with his statement, I think what is reasonable is simply to quote him, not editorialize. If you want, I suppose we could include that.

Ms. Hart: I am content with that. It is just that the statement as it stands is incorrect, because July 23 is the date of the statement. His own statement says they had, by that date, been bought back. Even if he had been the owner, he was no longer the owner. We have to say he owned the 20,000 shares at some point, if you want to use the term "owned," but not at July 23.

Mr. Sterling: May we have Merike work with the words?

Mr. Chairman: Okay. Let us mark that as a section that needs some revision. We will look at a second draft of it.

Mr. O'Connor: To follow up on my question, what are we going to do about characterizing or summarizing the rest of his evidence? Where does that come into our process?

Mr. Chairman: The reason there is none of that in here is that I did not want to put staff in a position where it made the judgement calls, the summaries, the characterization or anything. If that is anybody's business in this matter, it is the members of the committee who will do that. I told the staff: "Put the facts as you see them. Try to state them in as neutral terms as possible. Use excerpts if you want to make a point about something, use a quote from somebody's statement, but do not editorialize." They were operating under those instructions.

If the committee wants to editorialize, fine, that is its job, but, frankly, I would think it inappropriate in these two sections to do so. These are meant to be reasonably accurate portrayals of two statements that were made to the committee. Is that okay?

Mr. Sterling: I do not know whether this is editorializing or not, but I believe one of the significant things is that René Fontaine did not say



anything about the forest management agreement in his opening statement.

Mr. Chairman: Yes.

Mr. Sterling: I do not know whether we should put that in here, because this is what he stated.

Mr. Martel: I know what you are driving at. I was irritated that there was no mention of the FMA. If you go back, you will see in Hansard that I mentioned we had no indication of any problem or concern about the FMA. It was not even mentioned. We cannot put that in this section, but it must go in the report somewhere. I agree totally with you.

The thing that bothers me most about the whole thing so far is not what has been written, but what has not been told to us, frankly and openly, in the testimony to date by Mr. Fontaine. I could give you examples, but I do not want to.

Mr. Chairman: I am making the pitch that in this section of the report these two statements should be a synopsis of what the individuals said before the committee. It should be void of opinion. There should be no characterization. We should attempt to make it an accurate portrayal of what the person's statement was all about. If you want to do more, I would say go back to their actual words and quote them.

Mr. Sterling: In reading the report, people will be going along some time trying to make it readable when they get back into it later. Some time they will become aware that was the case.

Mr. Martel: Is it fair for us not to editorialize but simply to make the point at the end that no mention was made of the FMA in Mr. Fontaine's statement?

Mr. Sterling: Opening statement.

Mr. Martel: That is factual. It is not attempting to editorialize, but it makes it abundantly clear that the whole section dealing with the FMA was left out. It was not part of René's statement.

Mr. Chairman: I am at the pleasure of the committee, if that is what you want to do.

Mr. Martel: It is going to come in somewhere. For easy reading, you might as well have it right up front. I am simply saying it is a factual statement. I do not think it detracts from the facts. It merely says there was no mention made of the FMA in the statement. I do not know where else to put it, because we then go into the real estate holdings and the private corporations and so on.

11:20

Mr. Warner: I have a suggestion. First, staff has prepared precisely what it was asked to prepare--a factual accounting. It is proper that they not do anything more than a factual accounting. I do not think we need to alter either the statement by Mr. Brandt or the statement by Mr. Fontaine. It is a factual, straightforward summary of what was said. It might be useful for us to add a section, perhaps even another part, dealing with the discrepancies in Mr. Fontaine's statement; there are several.



Your point is well taken, Mr. Sterling, that in Mr. Fontaine's statement there is no mention of the forest management agreement and that whole business. It should be dealt with but I think it should be dealt with separately. In other words, if you look at the chronology of this thing in the table of contents, we have the two opening statements. They both came in and stated their concerns, facts or whatever and that is reported here. It will be important, especially since you hope there will be a conclusion to all this, to have the discrepancies the committee noted in the testimony of Mr. Fontaine.

Mr. Sterling: One of the problems when one reads this is that someone coming to a conclusion might say: "There is a lot in the report later that talks about an FMA. He must have said something about it but they just left it out of their summary."

Mr. Warner: That is the problem.

Mr. Martel: That is my problem. We somehow have to draw that distinction out. In my opinion, it is one of the two contentious issues; most contentious anyway.

Mr. Chairman: Let me help you out.

Mr. Martel: Brandt mentions it.

Mr. Chairman: You might want to put your observations on these two statements; that is, do another section where you make some observations about them. It seems to me that we meticulously try to put forward a synopsis of their statements. If Mr. Fontaine chose not to say something in his statement, that is his right. If you want to make an observation that he chose not to say it, put it in a separate section and make your observations known about both statements, one of the statements or whatever. That is fair game. But I do not think you can purport to be putting forward his statement and then editorialize around the edges.

Mr. Martel: I am not trying to editorialize. What worries me is I do not want to get into the arguments; we reach a dead end at this point because if they are the contentious issues, before we can start to put them down I think Merike Madisso is going to draw them out and we are also going to talk to Mr. Fontaine. I do not want to put something down until we have had an opportunity to hear from him. At the same time, without editorializing--I realize it is editorializing on the one hand, but on the other hand, that is really one of the concerns I have--

Mr. Chairman: I agree.

Mr. Martel: --we have to find a place to make that statement. It was not mentioned in his statement. What better place is there than adding it as a footnote? I know what you are saying, Mr. Chairman.

Mr. Chairman: I am making the argument that there has to be a place in the report where you express your opinions and come to your conclusions. I say it is not here. An opportunity was presented for Mr. Fontaine to come before the committee and say whatever he wanted to say. If he chose not to talk about a particular issue, it was his right to do that. We are presenting these as being the two statements. I am trying to keep it as limited and as accurate as it is. I am not trying to preclude your writing an observation part to it, but somehow we ought to make the distinction that it is the committee intervening and expressing its opinion.

Mr. Martel: Just put a note.

Ms. Hart: I have been reading the summary of Mr. Brandt's statement and the only time the FMA is mentioned is in the questions on page 2. What was questioned there was what Mr. Fontaine said about the FMA; it was not his conduct with relation to the FMA. I know we have concentrated a lot on the FMA, but it seems to me that came up in the committee and in the course of events as the hearings continued.

Now what we are doing is drawing a conclusion that he should have mentioned it in his opening statement, when really what we are talking about was not mentioned in the allegations. It was mentioned as we went along and was also mentioned in the questions, as I recall. I see how it is--

Mr. Warner: It is raised in the allegations on page 2.

Ms. Hart: What have I missed?

Mr. Chairman: Yes. On page 9 of Mr. Brandt's statement, he does identify this question, "Is it appropriate behaviour for the former member to have declared, once he was a member of the executive council, that he would push the Minister of Natural Resources (Mr. Kerrio) to approve an FMA that would directly benefit him, and the companies he owns, whether it is in a blind trust or not?" That is the simple allegation that was made--

Ms. Hart: "To have declared."

Mr. Warner: It was raised in the House as well, as I recall.

Ms. Hart: Okay. All I am saying is that we are dealing with facts as if they are isolated facts in the opening statement. In fact, it should be all the facts that came out, both in the questioning, which I do not necessarily think was cross-examination--

Mr. Chairman: No. Let me make this distinction. The attempt here was not to do that. The attempt was to simply portray the two statements as accurately and as succinctly as we could. That leaves ample room elsewhere to draw all of the conclusions and observations you want and anything else that came out of questioning that day, but to provide an occasion for the two members to have their statements included in this report.

Ms. Hart: Perhaps what I am questioning is, why is it valuable to summarize the statements and leave out other facts that came up the day the statements were presented by Mr. Brandt and Mr. Fontaine?

Mr. Chairman: Quite frankly, the alternative would be--and you may want to do this--not to try to summarize them, but to print verbatim the two statements that were made. I do not think that serves a lot of purpose.

Ms. Hart: I am questioning the validity of doing either. I think what this committee has set out to do is to find out the facts of the allegations and the facts of the response to the allegations. Taking a statement that is only part of what occurred is basically misleading to anybody reading the report because--

Mr. Chairman: I want to stop you there. The committee said to staff, "Include the two statements."



Ms. Hart: I appreciate that, but we have gone one step further now. I am questioning the validity of putting in our report the opening statements of either. What we want in our report--at least what I would suggest we want--are the facts as they came out. I am not talking about conclusions. I am talking about facts. All kinds of evidence is presented to judges and they do not say, "I am going to take the written stuff and we will deal with the oral stuff later because it is not as important." It seems to me we are putting undue weight on it because it is written.

Mr. Martel: You have to have a starting point.

Ms. Hart: I agree. We have a starting point. Let us go further.

Mr. Martel: Then surely the starting points for both Mr. Brandt and for us are the accusations made of the holdings and we take that from the statements of both men. To put 40 pages of René Fontaine's statement in a report is crazy.

Ms. Hart: I agree.

Mr. Martel: Surely those are the facts from which this committee is going to start its consideration of both positions. The accusations on one side and the statement prepared by the minister, in a straight, factual way lays before people who are going to read the report a quick overview of what the holdings were and so on and what each person said. You start to work from there. That is what we are going to do next.

We are going to find out where the discrepancies are or where we consider there are discrepancies, if there are any. That is going to be the argument we are going to discuss over the next couple of days, but I want to see this is in because it is a quick summary of holdings and so on. There are no conclusions. There is nothing, just the statements made by the two people who are at the centre of this controversy.

It seems to me that for public consumption you have to have that because what are people picking it up going to do? They have an option to read the whole of René's statement and the whole of Brandt's statement before they even start to get into it. People are going to get lost in the morass, quite frankly, of what is there. This is pretty simple and it lays it out pretty clearly for us. Otherwise, it is a jungle.

11:30

Ms. Hart: I am not advocating for a moment that we not go through the exercise of summarizing. I agree with Mr. Martel. All I am saying is that one area which came up very frequently in the questioning of Mr. Fontaine and all the witnesses was the forest management agreement. That is obviously an area of fact--I am not talking about inconsistencies--which we have left out merely because it was not in the opening statement, even though Mr. Fontaine dealt with it in questioning. All I am suggesting is that we do not exclude it because it did not happen to be in the opening statement, but that we have a section on the forest management agreement and put those facts in too.

Mr. Chairman: I am prepared to entertain the addition of a section where you attempt to go through all that. The reluctance I initially had was that the committee said it wanted a summary prepared of both statements. I asked the staff to be meticulous in going through that to make sure no opinions were offered and no conclusions drawn.



The question for the committee is, are these two summaries accurate? If they are accurate, then I urge you to leave them as they are. If you want to do more, then suggest we draft kind of an observations section, I guess, on the two statements. It may be more appropriate to do so in a latter part. If the two statements were not made on the record, I would have a problem in using a summary, but both were in full, open committee with a full Hansard in operation. If you are so inclined, you can read every single word of the whole proceedings. I do not have any reluctance in moving towards a summary, but I think the pertinent question is, are these two summaries accurate portrayals of the statements that were made?

Mr. Sterling: By the nature of Mr. Fontaine's statement there, I say it is not an accurate portrayal. The committee is choosing, for instance, to leave out all the references with relation to Mr. Martin. I have no desire to put them in a report, but there were more than 30 references to Mr. Martin, his character, etc. I see no good reason why they should go in a report.

Mr. Warner: I agree.

Mr. Sterling: However, there were two main issues that we were dealing with here. Everybody knew those issues before we even started. I will never forget when, right after he read the statement, Mr. Martel immediately responded and asked, "Are you not going to say anything about the FMA?"

Therefore, if you want to quote him--I do not know whether that is on Hansard or not--that is fine and dandy, but if you are reading this statement in the context of what actually happened in this committee, I really believe with respect to editorial comment, if you want to say it is an editorial comment, fine.

Mr. Warner: You are right. There are two major areas of concern: Golden Tiger and the FMA. Why not deal with those as separate sections? What we have here are the statements. We can pass observations on statements, but I do not think that serves any useful purpose. Here are the statements. Leave them as they are. Then you can deal with the two troublesome areas. When you deal with the FMA, for example, as a separate section, it is probably appropriate to mention that Mr. Fontaine did not raise the matter in his statement.

Mr. Sterling: Can I extend it? If we decided here not to include anything about Mr. Martin, which I agree with, did we also decide to exclude everything with regard to the FMA? In other words, we have been selective in what we have put--

Mr. Warner: All right. I understand that. On the other hand, though, it is reasonable to assume, since the FMA was important, that if it had been mentioned by Mr. Fontaine, it would be in the summary. It was not mentioned by him. The material about Mr. Martin is of a more personal nature and I do not think it is in good taste to include it. I doubt anyone would quarrel with that.

Mr. Sterling: I am just saying will the person who reads this report come back--

Mr. Warner: I doubt they will question the veracity of it if it is agreed to by all three parties.

Mr. Sterling: What do you think, Terry?

Mr. O'Connor: There is one aspect of this that is bothering me, and it is this: Mr. Fontaine's statement, which was lengthy--30 to 40 pages, something of that nature--was in essence a defence, an attempt to meet the allegations put by Mr. Brandt and to explain the situations raised by him. As I understood it, one of the essences of his defence was that he was somewhat forgetful but that primarily he relied on other people, his lawyers and his accountants, to do things for him and they did not do things; and that was one of the main points as to why he was in the difficulty he is in now.

That kind of characterization or that kind of chief defence, or one of his defences, does not come through in a summary of two pages of the so-called facts. The question we have to address is, is that defence a fact that he was trying to portray, and if so, how do we put it into our summary, because in leaving it out we may be unfair to him. If someone reads this through, not having read the full statement, he is going to say, "He did not declare this and he admits it; he did not declare that and he admits it; and he did not declare this," but there is no explanation of why. If that does not come here, and maybe it should not, when and how do we get it in? That is the problem with a summary.

Mr. Chairman: Okay. This is most likely a caveat created by me when I said I did not want to see anything that even alludes to opinion or that might be contentious. I would take it that this is why you do not see that.

I really want to beg the question. It seems to me that, from all sides now, I am hearing that you want to do some kind of observation or conclusion section at the end of these two statements. You are now saying you would like to see something drafted that says he did not mention the forest management agreements in his statement, perhaps a summary of what you just said in terms of being a bit of a defence, namely, "I trusted other people," or things of that nature.

The difficulty I am having is that I am trying to avoid having staff people draft opinions. Normally, it would not be a problem. I need a little help here.

Mr. Warner: I understand what the chair is getting at. For starters, you do not want to reprint the entire statement, and that makes sense. What you want is a summary. What the staff have put in is a summary of facts, and I do not think anyone disputes what is on the page. Right? What we have here is acceptable.

What Mr. O'Connor is suggesting is that there is more to it in terms of what Mr. Fontaine said. Part of his defence, as he stated when he was here, was that he relied on certain individuals, that they did not come through for him all the time and that he was maybe a touch forgetful. I am not sure whether he said "disorganized" or whatever, but there was that--what would you call it?--human element to his defence that he was adding.

The question is whether to put that in. I would say that if you feel it is relevant in the context of the entire statement and of what should be here, then do so, but quote directly from Mr. Fontaine's statement. In other words, everything we have here on pages 3 and 4 is a summary. If you want to add the section about where Mr. Fontaine uses the personal defence, personalizes it or however you want to characterize it, I have no objection to its going in, but I would caution that it should be done with a direct quote from Hansard and not some kind of executive summary of what he said.



Could you read it?

Mr. Eichmanis: "Still, even though the corrections I have made today are minor, I know I must assume the responsibility for not supervising the matter more closely and for my advisers not digging up every possible share or debt interest I had, however small.

"If I was wrong because I did not a year ago hire the team of lawyers that was necessary to unearth all the facts I put before the House on June 26 and this committee today, and because some of the advisers and lawyers I depended on may not have completely understood the nature of their tasks, so be it."

Mr. Warner: That really is part of his defence, I would agree. I do not have any problems with adding that, but I would prefer that it be added verbatim from Hansard. That is the way I feel about it.

11:40

Mr. Chairman: Give me some help here. The section John just read was on page 20 of Mr. Fontaine's statement and is labelled section 58. Is it your desire to summarize on page 4 by way of the direct quote from Hansard, which originally appeared at the end of Mr. Fontaine's summary as section 58 on page 20? Is that an agreeable way to proceed? Okay.

I will read it again. It simply says, "If I was wrong because I did not a year ago hire the team of lawyers that was necessary to unearth all the facts I put before the House on June 26 and this committee today, and because some of the advisers and lawyers I depended on may not have completely understood the nature of their tasks, so be it." I take it that quote would go in at the end on page 4. Agreed?

Mr. O'Connor: Before we finally settle on the form of that section, I am wondering if you could give each of us some time to review that statement thoroughly and come up with some ideas. I am only talking about the noon hour. We can make our comments on it now and then leave it perhaps until after lunch.

Mr. Chairman: I am proposing we use the process whereby if you can identify areas where you want some alterations made, we will make a suggestion such as this and come back to it later and see a redrafted version of it. If you have things you want to add or wording changes you want to make, we will not finalize them until we have gone through the whole thing.

Mr. Warner: That is normal.

Mr. Chairman: Is there anything else you think should go in here? On the FMA stuff, I would simply say he did not mention it. A number of you have brought up different things that came out during the testimony. Is it good enough to make a notation that this is simply a summary of what he said--in other words, explain that this is a summary of his statement and that more reference should be made to the complete Hansard, identifying the day of the Hansard and that kind of stuff?

Mr. Warner: The same with Andy Brandt.

Mr. Chairman: Yes.

Mr. Bossy: That is a fair conclusion. Maybe we should have a summary



because of the omission in his statement of anything about the FMA. We can say what the questions were and his responses to them, which were part of his total presentation. We have a written statement, but there is also part of that we must deal with because that is his total submission.

It then becomes part of our record of the FMA too, because these are questions asked in the summary here; for example, is it appropriate behaviour? We are talking about executive council and his reluctance as a former minister, having been under oath, to say things in response to this type of question. There could be a reluctance to talk about what goes on in cabinet. That is exactly what this sort of inference is. The questioning put him on the spot as to what might have gone on concerning this, but he did not make reference to that in his official statement, knowing there would be an avalanche of questions and that the question of the FMA would be put because it had been in the House.

Mr. Martel: I understand what we are trying to do, but the thing that blew my mind was that no mention was made about the FMA. It stands out like a sore thumb. Without editorializing, without altering, it is going to be one of the contentious issues. I am sure when we talk to Mr. Fontaine on Friday, there will be a substantial amount of discussion about his failure to indicate anything regarding the FMA and his failure to indicate that he had four meetings. That is going to be one of the key ingredients Friday afternoon. It is not even in his statement.

Mr. Chairman: I do not doubt that for a minute. All I am asking is, is it appropriate for us to purport to present a summary of his statement and then go on to editorialize about what he did not say? I do not think it is.

Mr. Martel: I do not think it is editorializing.

Mr. Chairman: I do not think it belongs in this section. The best thing I can think of is that you might want to put some notation, which in essence kind of flags it, that the committee feels it is important that people reading the report make reference to the complete Hansard for these two days and draw their own conclusions. I think that way is preferable. Whatever you want to say later about FMAs or whatever, do it, but do not mess it up in this section where we are purporting to present a summary of what he chose to say. He at least deserves that.

Ms. Hart: I have difficulty with this. We do not say to our witnesses, "We are going to pay real attention only to what you write down." His presentation was not just what he wrote down; it was also what he said in response to questions. For whatever reason, and I do not know the reason, he chose to deal with the FMA in the questions as opposed to in his statement.

Mr. Sterling: He chose?

Mr. O'Connor: We chose.

Mr. Villeneuve: I thought we chose the questions.

Ms. Hart: That is true. He chose not to say it another way. He chose not to write it down, to put it in the formal presentation. Since we did not tell him before he came that we considered it to be the only evidence, I think we are treating both him and Mr. Brandt unfairly. Evidence before us is evidence, whether it comes in response to questions or in a formal presentation.

Mr. Chairman: I agree.

Ms. Hart: I do not have any difficulty if you want to editorialize and say, "Although he did not mention it in his formal statement, this is a summary of what was said about the FMA." It has to be in there.

Mr. Martel: You would have to do that with every other issue and we are going to come to that. There is time.

Mr. Chairman: At this point, the best I can think of is some reference to the complete Hansards of those two days and--

Ms. Hart: Nobody will read that; nobody ever does. That is my concern. What they read is the report.

Mr. O'Connor: I think Ms. Hart is missing the point. I agree with you. At this point, all we can do is what we have done, with a few minor changes. The question of summarizing and characterizing the balance of Mr. Fontaine's evidence in response to questions will come at a later part of this material. It would be most inappropriate to ask the staff to do a summary of his responses to questions. We are sitting here as judges. We have had the opportunity, and it is our responsibility, to observe the demeanour of Mr. Fontaine and to draw our conclusions as to whether he was accurately telling us the facts. I do not think that asking staff to make those conclusions is fair to them or fair to us. That is abdicating our responsibility. We will have the opportunity to draw those conclusions at a later time in this report. All we are doing right now is summarizing what the two of them said in a formal way.

Mr. Chairman: In defence of the approach that we have chosen to use here, each of the two members was aware of questions that had been asked in the Legislature and was aware of controversial areas that could be discussed by this committee. Both made decisions as to what they would choose to open up with. Both had the opportunity to go as widely or as narrowly in presenting their formal statements to the committee as they chose to do and we are simply repeating that opportunity in the report.

Subsequently, we will go into all these other areas, but at this time we are simply saying that this is a summary of what they had to say in a formal way when they came and it expresses the choices they made about what they would and would not talk about. It might be appropriate to note that in passing and to make a reference to their complete statements and the questions that followed, but at this point, I do not want us to draw conclusions or characterize their testimony or whatever.

Ms. Hart: I have concerns because of the way it is presented. To me, evidence is evidence, whether it is a formal statement or not. To most judges, it is as well. Perhaps my concerns could be alleviated if we say at the beginning--the opening statements would mean nothing to me if I were a person just reading this report--that we chose as a committee as a committee to summarize only at this point exactly what was put into written statements, and although there was evidence received about other issues in the questioning, we chose at this point not to do it. That is my concern; it is somewhat misleading because it is only half the story.

11:50

Mr. Chairman: Okay. The notation would be something to that effect.



I believe John can do some drafting on that for us.

Mr. Sterling: May I say that having raised this matter, we have gone full circle? I would just as soon not have any notation if that is what you are going to come on with. Just forget it and go ahead with it. I just thought, in terms of reading the report that for me it was a very significant event that took place. If you are going to put it in, put it in. If you feel that is unfair, that it is editorializing, fine and dandy; we will put it in somewhere else and it could be put in almost in a milder sense.

Mr. Warner: Why do we not just deal with this as a separate topic?

Mr. Sterling: Okay, let us do that. You are saying then you may conclude that the forest management agreement to the committee was in a statement, but it was not significant enough to put down the fact. I do not want that impression left either; so I do not think you can win by fudging the words. I would just as soon leave that out.

Mr. Chairman: Let me put this question to you. Do you want a notation which identifies the committee's concern that somebody should make reference to the complete Hansard, or do you not?

Ms. Hart: No.

Mr. Chairman: Then we will proceed as it is.

Ms. Hart: I misunderstood what you were saying then. I am concerned about the way it is presented. You have the opening statements and then you have a summary. I do not need to go through it again. But if we do not say something about the fact that there was other evidence presented, other than the opening statement, it is not clear.

Mr. Chairman: Okay. Then I will identify this as one of those areas where at least one member has indicated she will at some point make a motion and draft some words and put them before the committee. I would like to proceed with it as we are now doing, identifying areas. At some point, we have to come back in and the question will be put, "Will section 1 carry?" If people have amendments--

Mr. Martel: What worries me is we are not attempting to misrepresent--and that is the word that was used a while ago--the situation at all. The stuff that came out when we discussed this with Mr. Fontaine and Mr. Brandt is not excluded. This is just an attempt to lay the facts out with respect to the accusations on the one hand and Mr. Fontaine's response to his holdings and what he did not declare on the other hand. Beyond that, there is no attempt to make any judgement. It is not an attempt to close off any other factual information that came out during the rest of the hearings; it is merely a statement in summary of the two statements made by Mr. Fontaine and Mr. Brandt.

If there is something erroneous, I am prepared to change that. But if it is merely what is here and that reflects accurately that which was stated by both witnesses, then I cannot understand how someone can say, "Well, it misrepresents." It does not misrepresent anything. It simply attempts to indicate in summary what both men said when they were before us. The rest is gobbledegook, that it misrepresents. If that is not what the statements say, I hope you will point out to me where it is wrong.



Mr. Chairman: This might be an appropriate point to finish up on.

Ms. Hart: Just very briefly, I am not saying what is there is wrong; I merely wanted to clarify that it is not the whole story.

Mr. Chairman: You will get a chance to put that.

Mr. Bossy: With respect to the facts in the two statements, we hear all kinds of inferences which are a conclusion that because of the omission there is something wrong. I do not think we should be really saying, "Because of the omission of his not having a statement in his opening remarks, that it is very suspicious. We are already drawing a conclusion because he left it out, but that appears later.

Mr. Martel: We are not putting it in.

Mr. Bossy: We can accept all these statements, so we are really not dealing with much.

Mr. Chairman: We will adjourn then. I would consider that we have dealt with the first part of the report. We will come back and make a formal motion adopting it. At that time, you may have an amendment; I think we have one. I have only two areas in which there will be some redrafting. Wait until I go through it.

At page 2 at the bottom, we will put in a section on the conflict-of-interest guidelines. At the top of page 4, we will do some rewording on the Wheeler Martin shares, and at the end of the first part, we will put in a quotation from page 20 of Mr. Fontaine's statement. Those are the drafting changes I have noted.

Mr. O'Connor: Since we are not dealing with witnesses and their convenience, may we set the hours for these discussions? I suggest 10 to 12 and two to four every day for the two days we are here and perhaps for next week, so that we can better schedule ourselves around those hours.

Mr. Chairman: It is agreeable to me.

Mr. O'Connor: Is that all right, except for the Friday when we have a witness, of course?

Mr. Chairman: Yes. Is that an agreeable way to proceed?

Mr. Warner: Sure.

The committee recessed at 11:58 a.m.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY  
ALLEGED CONFLICT OF INTEREST  
WEDNESDAY, SEPTEMBER 17, 1986  
Afternoon Sitting



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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VICE-CHAIRMAN: Mancini, R. (Essex South L)

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Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Treleaven

Partington, P. (Brock PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

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Madisso, M., Research Officer, Legislative Research Service



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday, September 17, 1986

The committee resumed at 2:11 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: Now we are on the record.

Mr. O'Connor: In the course of preparing this document, which I understand is to be an uncontroversial statement of certain facts that we can all agree occurred--of course, there will be a subjective analysis of that when it comes time to prepare our conclusions and recommendations--I wonder whether there should not be in this a section that deals with what might be entitled "Conflicts in Testimony," or the various versions of certain facts that have arisen.

Off the top of my head, I can think of four or five cases--there may be many more, or perhaps not that many--where Mr. Fontaine's version of what occurred and when it occurred is different from that of other witnesses. Without becoming subjective as to whose version is correct, it would be helpful for us to know where those conflicts exist and simply to state them as a fact; for instance, there is a conflict between the evidence of Mr. Fontaine and Ms. Eberts on when he was told to sell his shares. Let us at the end of the process analyse those and try to determine whether somebody intentionally did not tell the truth, whether it was a mistake or whatever conclusion we can draw from it. It would be helpful to me if all those things were detailed and set out for us in advance.

Mr. Chairman: I have had a couple of other members ask me about this privately. What may be a useful way to proceed is to try to go through the document we now have. I would not say they are uncontroversial facts, but we are looking for a common set of facts upon which to write a report, and that is what was attempted here.

It is possible, and if you want, we could ask John, Lynn and Merike to put together areas where there needs to be more questioning, where there are apparent discrepancies between testimony provided by various witnesses. We could allow them to put that on the table. If you will allow them to do that on their own, then when it hits the table it is fair game to argue out what is or is not there and add to it and take away. We could probably manage that.

If there were agreement that the staff should try to do that, to outline areas where there are apparent discrepancies in testimony, differences of opinion or areas where questions should be asked when Mr. Fontaine appears again in front of us, we could ask the staff to do that.

Mr. Martel: That is why I started off right at the beginning this morning, if you recall, because I was not sure how we were going to proceed on Friday afternoon. I thought we wanted to get to the nub of the various problems or contentious issues where there was going to be differences, because obviously that is where the questioning would be after Mr. Fontaine spoke on Friday. I was not suggesting what they might be or the positions

taken by Mr. Fontaine or any of us here. What I was trying to allude to was exactly what my friend is talking about, to try to bring it together, but not as part of the report. Some of the Liberals cringed when you suggested that. I think you said you wanted that as part of the report. I am not sure I want to see whatever document is put before us as part of the report.

I hope that on Friday afternoon we can deal with the real issues instead of being all over the ball park. That is what I was trying to suggest this morning: If you people were doing it, would you tell us the documents and the statements in Hansard you might be referring to so we can deal with it after Mr. Fontaine has had an opportunity to make some sort of statement--or he might want to answer questions; heaven knows what position he is going to take--but we could have at least a guideline to what we were going to deal with.

By the way, notice there are not very many press people here today. We opened it up to the press, and they have left. I said that was what would happen. We know how to drive them out.

That is what I was trying to get at this morning, so we would get to the issues and not have to spend days. There are areas about which all of us have some concern and might want to question. If we could have those in some form of document, it would expedite the discussions with Mr. Fontaine. As for that becoming a part of the report, at this time in history, I would say no. I do not want to say this is going to become a part of the report, because I do not think that is fair, until we have an opportunity to decide what we want to do. That was what I was trying to drive at this morning. I agree that it may be better to have staff do it, as opposed to asking the Conservatives to share the (inaudible) the documents.

Mr.-Chairman: At the risk of being partisan, I would be a little reluctant if the research department for one party served to set the agenda for the committee. As opposed to that, I would prefer that our own staff attempt to do that. Just a small conference here tells me they are prepared to do that. The advantage would be that a neutral source, so to speak, puts forward the areas where the committee should consider these. We did have a little problem with parliamentary language. It might assist us somewhat if the staff were able to turn their minds to phraseology to keep everybody out of hot water. Is there general agreement to do that? Okay.

We can proceed through the documents we have now, and perhaps by tomorrow, to be of any use to us, we would have something to begin with.

14:20

Mr. Martel: As one who is going to Stoney Creek early tomorrow morning to speak and then fly back, I wonder why we do not give the staff the morning to work on it. We are going to be here until four. They have to have some time.

Interjection: And not sit tomorrow morning.

Mr.-Martel: And not sit tomorrow morning. Sit tomorrow afternoon.

Mr. Chairman: How much time do you need?

Ms. Madisso: It will be very helpful if we can have the morning.

Mr. Eichmanis: There is also the matter of typing.



Mr. Chairman: If we can get through the documents we have this afternoon, tomorrow we might be able to present to you the redrafted version. We have the stuff on a word processor; so changing words is not a problem. We would be able to provide you with any wording changes off existing documents and a new document that outlines where there appear to be discrepancies.

Mr. Warner: Does it help if we narrow it a bit for the staff?

Mr. Chairman: I prefer at this time that you not give the staff directions on that. They have sat through all the testimony. They have all the documents; they have probably read more of them than any member of the committee. They may be in a better position. You can always give directions to staff, but the idea is to put a relatively neutral document in front of you and allow you to work from it.

Interjection: This is a separate document?

Mr. Chairman: Yes.

Mr. Warner: You are just leaving it open, then?

Mr. Chairman: Yes.

Mr. Warner: All right.

Mr. Chairman: In other words, give them a free hand at drafting this thing.

Mr. Warner: All right. Fine.

Mr. Chairman: Can we move to part II, which is an identification of Mr. Fontaine's assets? Is there anything in here that anyone feels needs clarification? It seemed to me to be all-inclusive.

Ms. Hart: May I have a clarification? What is this section intended to do? Is it merely a list of assets? What instructions were the staff given? I apologize; I am not here all the time, but I was a little confused by it.

Mr. Chairman: Germane to it is that the disclosure provisions require him basically to list all of these. Because there has been some confusion about exactly what holdings he did have, this is an attempt to provide you with a final list of them.

Ms. Hart: The reason I have some confusion is that the first section is real estate holdings; then it goes into the conflict-of-interest guidelines, and it does that throughout. It seems to me that it makes a whole lot more sense to make the guidelines an appendix. Are you just listing assets as facts, or are you comparing them against the guidelines? It seems that some places do one thing and some places do the other.

Mr. Eichmanis: Because it was intended as a draft, we thought it might be useful for the committee to have the facts and the guidelines together so that at this time you could look at the guidelines and see what they say about individual holdings, then look at the facts and make some determination about what you thought should be the conclusion. The final report would then exclude the guidelines, if you wanted to do so, if you thought it was inappropriate.



Ms. Hart: It does not really matter to me. I just wondered why it was there.

Mr. Martel: For simplification for anybody reading the final document, it is going to be much easier if he just looks up above and knows what the reference is to. Instead of making us turn all the time to the appendix, where the guidelines are, they have tried to simplify it for us. I found it really helpful in going through this.

Ms. Hart: Concerning editorial comment, was there supposed to be none? Is that the way it is supposed to work?

Interjection: Yes.

Ms. Hart: Okay. There was one place where I had a couple of questions. On page 8, right at the top, it seems to me this does not fit within the parameters of what was just said was supposed to be in there. We are talking about the Legislative Assembly Act.

Mr. Chairman: The two pertinent guidelines that are in question here are (a) the conflict-of-interest guidelines of Mr. Peterson and (b) the Legislative Assembly Act. Those were the two parameters the committee set out initially as being relevant to this hearing.

Ms. Hart: We have not set that out anywhere so far.

Mr. Chairman: Yes, we have.

Ms. Hart: Where?

Mr. Chairman: We did it at the very start of the hearings, when we laid out which acts would properly be considered before us.

Ms. Hart: Let me clarify what I meant.

Mr. Chairman: You have that written in here.

Ms. Hart: It seems to me that it does not make sense unless you say this is how you are proceeding.

Mr. Chairman: Yes. In that instance, probably what would make some sense would be to lay out under Part II, beginning on page 4, those parameters and explain how we have interspersed the guidelines or the Legislative Assembly Act.

Ms. Hart: I would be happy with that.

Mr. Chairman: What we need is an explanation section.

Mr. Warner: I have two things. First, in terms of the way it is set out, which I appreciate, I wonder whether it might be even more helpful if it were prepared as a chart with left-hand and right-hand sides.

Mr. Chairman: That is pretty difficult to do.

Mr. Warner: Not on your little machine.

Mr. Chairman: We have that in another document prepared for you on July 21. That kind of description can be put forward.

Mr. Warner: Second, I think Christine is right. What John has done is connect the part of the holding, the real estate, for example, with the section of the guidelines that refers to real estate. That makes sense. All I am suggesting is, instead of doing it down the page, set it up on the left-hand and right-hand sides of the page; it will be easier to read.

Mr. Eichmanis: Mindful of the matters that Ms. Hart raised, our intent was to make this as close as possible to the way the committee would want to have the final draft. To do the chart, you will have two documents. The idea was that, whatever additions the committee wanted, we should be working on something that would be the final draft.

Mr. Warner: That is fine. The second point is that I assume there will be an opening page or two that will list the reference to the committee.

Mr. Chairman: Yes.

Mr. Warner: Is it appropriate to mention in there where the questions were raised about whether the previous guidelines and sections 10 and 11 of the Legislative Assembly Act had been broken?

Mr. Chairman: We will do the motion of transmittal, all the background and the relevant acts; so there will be an introductory section.

Mr. Warner: That will be the place to put the sentence at the top of page 8, rather than leave it where it is.

Mr. Chairman: I think it also has to be there, or it does not make any sense.

Mr. Warner: There would be a list of witnesses as well?

Mr. Chairman: Yes.

Mr. Chairman: Christine, you had another point?

Ms. Hart: Yes, on page 9.

Mr. Martel: Are you satisfied with everything up to page 9?

Ms. Hart: Satisfied?

Mr. Chairman: Wrong question.

Ms. Hart: I would add a lot. At the bottom of page 8, for example, the last paragraph says, "On July 23, Mr. Fontaine stated to the committee that he still continued to hold three shares in Kabu Exploration Corp."

I raise that as an example. That is true, except it seems to me the context of that is that he gave instructions to have those transferred to the new president, and it did not occur. That puts a whole different light on it. It is a minor matter in terms of the overall. That is why I did not raise it. I am not satisfied with it.

Mr. Chairman: You said you have something on page 9.

Ms. Hart: I am wondering why the letter from Mary Eberts is in this part. It does not seem to come in this part dealing with holdings. What he

should have done, or what we say he should have done, with the holdings is another whole section.

Ms. Madisso: I included that under the holdings of Mr. Fontaine, among his private companies. That can be a separate section if you want it to be.

Ms. Hart: Because there has been so much discussion about it, it makes more sense to have it as a separate section.

Mr. Martel: We can include that in a separate section. That is the first statement. We may want to include that there was in fact no reference to the forest management agreement in the minister's opening statement to us. Some may not see that as a problem. Some of us are nervous--maybe "nervous" is not right--irritated that it was not included.

Mr. Morin: At what?

14:30

Mr. Martel: We are irritated that there was no mention of the forest management agreement in the former minister's original statement to us in July. There was no reference made, and since Christine has suggested we make a section, we are looking for a place to put it in.

Mr. Chairman: Let me go at it in this way. My personal preference is to leave it here unless someone says it is inaccurate. If you want to add another section where you engage in observation, commentary or whatever, I prefer to set it aside and do that in another section to add on later.

What I have tried to get you to focus on today is whether there are inaccuracies in the report. You have pointed out that you can read it one way or the other, but as long as you are satisfied that it is an accurate presentation, my preference is to let it stand and move to another section where we give conclusions, observations and arguments pro and con.

Ms. Hart: Perhaps I may complete what I was going to say. At this stage, we are listing holdings and we can list, because he was a partner in United Sawmill, that he had some interest in the FMA. But I do not see how the advice from Mary Eberts fits in when you are listing holdings.

Mr. Chairman: You would be saying that the section on page 9, going over on to page 10--

Ms. Hart: It is an inappropriate place to put it, in my view.

Mr. Chairman: You are saying you would rather see it lifted and put in another section.

Ms. Hart: That is right.

Mr. Chairman: Does anybody have a problem with that?

Mr. O'Connor: A new section?

Mr. Chairman: A new section.

Mr. O'Connor: Entitled forest management agreement, or whatever?



Mr. Chairman: Yes.

Mr. Martel: You almost have to cross-reference it then. It is a private holding, is it not?

Ms. Hart: I am content to leave it here as a holding. But what has the advice from Mary Eberts got to do with the fact that he had a holding in the FMA? That is what I do not understand.

Ms. Madisso: You will run into this from time to time, because we set out not only the holdings and the bald statement of what they are, but also we set out the facts in relation to them. When were they raised? For instance, in the Eberts letter. Later on, you will see the Blenus Wright letter. Wherever these holdings were referenced in a factual way, we included the reference. For your information, we included an excerpt from the letter, so again you would not have to go rifling through your papers, just as we included the guidelines right in the section.

Ms. Hart: I could point out a difficulty with putting the letter there. For example, the last paragraph of the letter at the top of page 10 talks about changing the guidelines. Since it is there, it raises the question, was this before or after? In fact, they were changed in the September guidelines, which does not appear. The more you put in, the more questions are raised.

Mr. Chairman: Is there agreement that this should be taken out of this section and put into a new section?

Mr. Martel: You have to make a new section for each of the circumstances then.

Mr. Chairman: That is my only problem.

Mr. Martel: As Ms. Madisso says, where are you going to put the information from Blenus Wright? Are we going to make a new section for Blenus Wright? Are we going to have sections on every witness?

Mr. Chairman: Yes. It raises the question--I see your point--but it does not argue it either. It lays out two things: (a) holdings in United Sawmill and (b) the conflict which some may see arising from the Eberts letter. Because it does not comment further, I would have the tendency to leave it there, or else we will have a new section for each of these items. You may want to do that, but I thought the idea was to try to state here the holdings, whether it may be pertinent to include a guideline or the Legislative Assembly Act, or something else. I thought the idea was to try to lay out where these conflicts might fall and what is relevant.

I did not see much in here that argued the point. It identified it, but it did not argue it; so my tendency would be to leave it as is. It is up to you. Do you contend there is a lot of argument here?

Ms. Hart: In setting it out as holdings, the letter does not fit. If you want to, in this section of holdings, then let us go back to the beginning and talk about all the evidence that relates to these holdings. We have not done that with everything else.

Mr. Chairman: No.

Ms. Hart: We have only done it with the forest management agreement. It also seems to me to be a logical way for the report to continue after you have set out the holdings. First, set out the opening statements, then the holdings and then match them up. "We think there is a problem here and this is why." If we think this is a problem because of the letter of Mary Eberts or the testimony of Blenus Wright, that is where to set it out. Here it is like a little orphan; it does not fit. It is not a holding. It does not relate to the holdings except in terms of advice given, and I thought that was not the purpose of this section.

Mr. Chairman: When I read this, frankly, it did not even dawn on me that there was anything which intimated an argument here. I read it as being a simple identification of holdings in United Sawmill, the linkage to the FMA and the letter from Mary Eberts questioning the propriety of that or indicating there might be a problem with it. I truly did not read an inference there of any opinion either way as to whether it was right, wrong or whatever. I want this to be a statement of the facts as the committee sees them, so I do not want to leave the inference here that there is something wrong. I did not read it that way.

Mr. O'Connor: It could be commented that the letter is a fact. There is no question that letter was written and received and it is a fact relative to the the FMA situation. From that point of view, it fits with a general statement that United Sawmill is a partner with another company in Hearst Forest Management Inc. and so forth, as it says. It does not draw any conclusion. I cannot see that it is therefore in any way offensive or offends the guideline that we should be dealing only with facts at this stage of the report.

Mr. Warner: I have two observations. Going back to the table of contents and looking at how it has been set out, the entire report is set out in two parts. Part I is the statements by Mr. Brandt and Mr. Fontaine. Part II deals with all the assets and in each case what is relevant with respect to those assets. That is the approach that has been taken. Therefore, when you come to page 9, United Sawmill is an asset and what is listed is everything that is relevant to that including, of course, the forest management agreement.

What is stated as being relevant is, for example, "The negotiation of such an agreement has been ongoing since 1983." That was a fact that was relevant to the holding. The holding belonged to Mr. Fontaine long before he was elected. That is the process that has been used here. To tell you the truth, if we are to vary from that approach, in fairness, the only other way to go at it is to take out the most contentious parts and deal with them, highlighting them instead; in other words, to make a straight listing of Mr. Fontaine's assets, just as you would on a piece of paper, and then say, "Here are the major problems." The major problems are Golden Tiger and United Sawmill and the forest management agreement.

Then we would go into each of those in great detail as to the source of the problem, the conflicting statements and all the information, including Ms. Eberts's letter and Mr. Fontaine's denial of the letter and so on. You could list all that, but you would have to do it as separate sections. Looking at how this has been set out, the staff have attempted to do it in a very coherent fashion by taking each asset, dealing with it separately and indicating what facts are relevant to that asset. I cannot quarrel with that approach.

I read this thing three times very carefully and I confess, quite candidly, aside from looking at whether the statements or things introduced



were accurate, I did not see anything wrong with the way in which it was set out. For me it is a good working document.

14:40

Ms. Hart: I am not going to make anything further of this. I obviously have one idea of what this was intended to do and the committee has a different one. If you would allow me to have a look at it at the end of the day and see if there is anything else I think should be added in the light of the committee's view of what this section does, I would appreciate it.

Mr. Chairman: Okay. Is there anything else that any other member identified as being not accurate or not put the way you would like, or are there places where you would like an alteration?

Mr. O'Connor: I have a small point on page 12 in the last paragraph, starting with, "During the committee's hearings," about four or five lines down where it says, "licensed by the Ministry of Natural Resources to cut timber and that some of these licences had been renewed in the fall of 1985." It might be important to put the exact date on which they were renewed, that is, August 29, 1985, because of its relevance to Ms. Eberts's instructions in regard to the renewing of licences, which were given in July, or allegedly so through her letter. Do we know for a fact that those licences were renewed on one day?

Ms. Madisso: I think they were renewed on a number of days and September dates were also included. That is why I said the fall.

Mr. O'Connor: Can we identify the dates? I know at least one, and I thought two, were renewed on August 29. I introduced the documents.

Ms. Madisso: I can look again.

Mr. Chairman: On page 12, can you make a notation that we will attempt to identify the actual dates?

Are there any other points of contention on the way through here from any other member? On the public corporations listings, non-escrow shares, shares in escrow with Guaranty Trust, Villeneuve Resources, Paladin Petroleum, Danvers Resource Explorations, Kenartha Oil and Gas, Bell Canada Enterprises?

The next portion here is on grants under the Ontario mineral exploration program. Is there any part of that section of the draft that raises questions? It starts on the bottom of page 17 and runs on to page 18 and 19. Are we in agreement on that?

Mr. Warner: This may be covered on page 19, but am I right that the responsibility for these grants was transferred from one ministry to another?

Mr. Chairman: Yes, because the Minister of Northern Affairs did not exist.

Mr. Warner: Did René identify that?

Mr. Chairman: Yes, in the last paragraph on page 19.

Mr. Warner: Right. Sorry.



Mr. Chairman: On the directorships?

Mr. Sterling: In the area of the OMEP grants, I feel the committee probably should have gone into more examination than we did. The evidence was sketchy in that area. Who was the man we had in here who had only been appointed in December?

Mr. Warner: The gentleman who came before us?

Mr. Sterling: Yes.

Mr. Warner: The assistant deputy minister, Tieman.

Mr. Sterling: Yes, Mr. Tieman. I think it is hard to draw a conclusion.

Mr. Chairman: Is there any challenging of the listing of the directorships? Okay. Basically, on the draft report to date we have--I have to go through it again.

Mr. O'Connor: Mr. Chairman, may I go back to one point? You went through those last sections very quickly and there was one I wanted to raise on page 15.

Mr. Chairman: Okay.

Mr. O'Connor: I refer to the second-last paragraph, where we are dealing with the sale of Mr. Fontaine's shares in Golden Tiger. I think an additional sentence that sets out the value of the shares, which is readily ascertainable from stock market records, on various relevant dates might be helpful--for instance, June 26, perhaps the date of the Eberts letter and the date on which he finally sold them. There was much made of the fact that the shares more than doubled in value during the period he held them. Stating the value on those days would, I think, be relevant to our deliberations.

Mr. Warner: If that is going to be done, out of fairness, the price on the date he purchased them should be stated as well.

Mr. O'Connor: Sure. I agree.

Mr. Warner: As we learned, he lost money on the deal.

Ms. Madisso: Where would I get this from? I have not seen this in our documents.

Mr. Sterling: With respect, I think this is a red herring. There are two dates when the value of those shares is important: first, when he became minister and, second, when he sold them.

Mr. Martel: I was going to get involved in this, but not in this section.

I thought Paul Martin was very good last week. Everybody thought Martin was going to come in and--I thought he was a pretty frank sort of guy. I am going to have to look over the guidelines again, but the thing that worries me about the whole piece is, can you sit on shares? Does it make you at fault?

You are faced with two things. You want to cut your losses and you know an underwriting has gone on that will increase the value. But you weigh that

against what the Premier's guidelines said about December 31 and how that stacks up against the issuance of cheques to some company, which is an automatic thing. I have thought about it for a while. I spoke to the chairman about it last week, because I am not sure what it does. It is a real problem for me; let me put it that way.

Mr. Chairman: Let me pursue the point that has been raised by Mr. O'Connor. We have had a request to try to establish the value of the stocks on, as Mr. Sterling said, two dates. I do not have any problem putting that in some other part of the report, frankly. If we insert it here, we will have to address the question of when you take the value of the stocks. Do you take it when purchased? Do you take it when Mr. Fontaine became a minister? Do you take it when he sold them? All three combinations of that? We are into the argument about the increasing value and whether he took a loss, made money or whatever.

I have no problem doing that in another section; I have a little bit of difficulty inserting it here.

Mr. O'Connor: First, with regard to whether he made a profit or merely cut his losses, in my opinion, that is a red herring. It is irrelevant. There are two relevant dates: the date on which he became a minister and the date on which he sold the shares. Those are facts. There is nothing controversial about them. In another part of the report, we draw our conclusions about why he held on to them that long and whether it was wrong for him to have held on to them in light of the Eberts letter, which apparently told him to sell them. We will not get into that now.

Mr. Chairman: Your suggestion is that we include the value of the stocks and the request is for the date he became a minister.

Mr. O'Connor: June 26 and December 10, 11 and 12.

Mr. Chairman: June 26 and December 10, 11 and 12. It seems to me those would be relatively easy to obtain.

Mr. Morin: The issue price is very important.

Mr. O'Connor: It is not.

Mr. Sterling: It is not.

Mr. Morin: It surely is important.

Mr. Chairman: This is my difficulty with stating these dates. We are stating two facts; some will want to state three facts. I do not have a problem stating nine facts, as long as you all agree it is desirable to state them.

Mr. Morin: It does not cost you anything to ask all those prices, and we will get them just like that.

Mr. Chairman: You will decide at a subsequent date which ones you think are relevant.

14:50

Mr. O'Connor: If my friend is arguing that it is better for Mr.



Fontaine to be seen cutting his losses than making money, I can accept his argument that we should put in the issue price, but to my mind those two things are irrelevant. The question is the change in the value of the stock. Whether that change resulted in a profit or in cutting losses does not matter.

Mr. Chairman: I am happy to entertain this argument in a subsequent section, but if we want to put it in here, then it seems to me if you want value of stock, you would have to accede to a request on any date. If any member of the committee says, "You have to give me when he bought them, last June, last July, last December," if you are asking for a simple statement of facts, you must accept that everybody else has the same right and we will accede to that.

Mr. O'Connor: When did he buy the stock?

Mr. Morin: When were the shares issued?

Mr. O'Connor: He did not get issued shares. He did not live in Quebec.

Mr. Morin: I thought he had bought them. If I recall--and correct me if I am wrong--Martel said they were issued in Quebec and he bought them on the open market.

Mr. Chairman: To be a little rough about it, in all the testimony we heard it was generally said that he bought them at about 30 cents a share, but I am not sure that is true because that was just testimony that was given before us here. If you wanted us to do that, we would attempt to get the relative value of those shares for any date any member of the committee wanted, and include that in this section.

Mr. Martel: You would have to get the date on which he purchased the various shares. I do not know whether he bought them all together. My impression was that he did not get them all at the same time.

Mr. Morin: He bought a block right at the beginning.

Mr. Martel: The whole 60,000 roughly?

Mr. Morin: I do not know the figure; 31,000? I do not know.

Mr. Sterling: Did he not say?

Mr. Villeneuve: That might be interesting to know.

Mr. Warner: First of all, we have to deal with Terry's request. Were the prices to which he is referring introduced as evidence during our hearings?

Mr. Chairman: Some were, some were not, but it would be a relatively simple matter to find out what those shares sold for on June 26 last year and what they sold for on the open market on December 10, 11 and 12. If we had the acquisition dates, we could find that out too. That would be incontestable.

Mr. Warner: My preference would be to go one of two ways in this, to either take what Terry has asked for and then add to it all the relevant dates of when they were purchased and what they were worth or to leave it out entirely and deal with it in another section. I will tell you why. Quite candidly, faced with the same set of facts, I came to a different conclusion



than you have. Based on what occurred, I placed the primary responsibility on the Premier (Mr. Peterson) for that blunder and not on him.

Mr. Chairman: Let us argue that another day.

Mr. Warner: That is why I am suggesting it be dealt with in a separate section. We may have differing opinions or different conclusions as to how you put those facts together.

Mr. Chairman: That is fine. I make the argument that if it goes in this section, it goes in as a simple statement of the value of stock and we would accede to the request from any member of the committee, within reason. If some members want the date of issuance, we will put in the value on that date. If somebody else wants it on June 26, we will put that in. If somebody else wants it in those three days in December, we will put that in. In this section, we are not arguing whether this was good, bad or whatever; it is a simple statement of fact. Is that agreeable? Okay.

At the end of this, we will try to get a simple statement which says the stocks were bought for this value on these dates. On June 26, 1985, they were worth this amount of money and on December 10, 11 and 12 they were worth this amount of money. That is the way it would be stated. There would be no argument about win or lose. It is a statement of fact.

Mr. Bossy: Could we also have the value of that stock at its highest point between the date of purchase and the date of sale?

Mr. Chairman: If that information can be readily got, yes.

Mr. Bossy: I think there were fluctuations. This is just to see what the high was within that period.

Mr. Sterling: May I draw an analogy here? Number one, I do not know whether you will be able to get that. From what I have heard about what has happened, I do not know how clearly we can trace all the transactions involved.

My analogy is this: You owned a company that was losing money and you became a cabinet minister while it was losing money. It was against the guidelines for you to continue to own that company and you held on to it for six months and got it back to a profitable position. For whatever reasons, does that justify your holding it from the date you were a cabinet minister to the date you sold it?

Mr. Chairman: That is another question to think about. I am prepared to entertain that argument but not in this section.

Mr. Sterling: I do not know whether they peaked before he was a cabinet minister, whether he bought them for \$3 or for 30 cents.

Mr. Chairman: I had a simple request from a member of the committee to add in this section the value of the stocks on certain dates. I am happy to do that as long as we accord the same privilege to other members and we are not talking about increases or losses or anything else, but simple statements of facts that we can ascertain relatively quickly.

Mr. Martel: Terry made the request for certain dates. I cannot see how you can exclude a similar request from someone else to include another date. That is where the whole thing started from.

Mr. Chairman: We will attempt to put in, probably just after the section on page 15, "The values of stocks on the issue date, on June 26, 1985, and December 10, 11 and 12, 1985."

Mr. Villeneuve: And also when those shares peaked.

Mr. Chairman: Okay. If that is readily available. I am not sure it is but I guess it would be. You can argue later.

Mr. Sterling: (Inaudible) the issued price for them, because his evidence was that he got a special deal on the issued shares.

Interjections.

Mr. Chairman: You can have these arguments later. We are looking for facts.

Mr. O'Connor: I have one more suggestion for an uncontroverted fact and a date in that paragraph. That is November 10, 1985, the day on which the public underwriting of \$1.4 million was made. If we are going to include--

Mr. Martel: Is that the day the underwriting was completed?

Mr. O'Connor: Yes, November 10. Just a sentence adding that the company made a public underwriting or issued shares in the value of \$1.4 million on the public market on November 10, 1985. Again, drawing no conclusions, but it is a fact.

Mr. Chairman: That is from testimony given by Paul Martin.

Mr. O'Connor: If we were relying only on his testimony, I might be leery, but it is a fact that can be checked through public records.

Mr. Chairman: Is there any objection to inserting that statement?

Mr. Morin: Put them all in.

Mr. Chairman: The general idea has been to get facts on the table in this section of the report that nobody is contesting.

Mr. Martel: On page 15 it says, "The trust deed executed by Mr. Fontaine on December 23, 1985, does not cover these shares." What does that mean?

Mr. Morin: Where are you looking?

Mr. Chairman: Page 15, the second to last paragraph?

Mr. Martel: No, right at the top. Right after the closed section.

Ms. Madisso: They were not put into trust, in other words.

Mr. Martel: Which shares are you talking about?

Ms. Madisso: It comes under the heading of "Non-Escrow Shares" on page 14.

Mr. Martel: Okay. For someone reading that quickly, if we can be more specific there and add that, instead of--

Mr. Chairman: Explain which shares.

Mr. Warner: To say, "does not cover the non-escrow shares."

Mr. Martel: The non-escrow shares. That clarifies that we are not talking about a whole series of--

Mr. Chairman: We are going to try to identify on page 15 which shares were not covered.

Mr. Morin: On page 15 again, in the fourth paragraph from the top, it says, "It is the testimony of both that at that time Ms. Eberts stated that the Golden Tiger shares had to be sold." If we look at the Hansard of August 12, Tuesday morning sitting, page M-12, it reads:

"Mr. O'Connor: When did you first suggest to Mr. Fontaine that he should sell his shares in Golden Tiger?

"Mr. Gagné: I cannot recall the date, but I recall saying to René to sell his shares in Golden Tiger.

"Mr. O'Connor: Do you not remember the date?

"Mr. Gagné: No.

"Mr. O'Connor: Did Ms. Eberts tell him to sell his shares in Golden Tiger?

"Mr. Gagné: Mr. Fontaine claims Ms. Eberts called me, but I cannot implicate Ms. Eberts because I am not sure whether she called me or not.

"Mr. O'Connor: At the meeting, did she mention selling the Golden Tiger shares?

"Mr. Gagné: They either had to be put in a blind trust or sold, but there was no rush."

I think that should be indicated somewhere. There is a statement there. We say Ms. Eberts told Mr. Fontaine that she recommended the shares be sold. All during the statement she did not say, "Sell your shares."

15:00

Mr. Villeneuve: It is in the letter.

Mr. Morin: No, the letter does not say exactly, "Sell your shares now." She did not say that. She recommended the shares either be sold or put in a blind trust. Do not forget he had until the end of December to do so.

Ms. Madisso: The reference is to November 1985.

Mr. Morin: Yes.

Mr. Chairman: By November, he had been told the second time.

Mr. Martel: In November, it was the second time he had been told. He was told by letter in July to sell or put them in blind trust and he was reminded of it in November. That is one of the irritants. I do not want to get



into the arguments, but it is one of the irritants that nowhere in Mr. Fontaine's testimony when he was here in July did he indicate that he had been told by Ms. Eberts in writing to get rid of those shares or put them in a blind trust. I cannot recall that being stated at all.

Mr. Chairman: Is there something we could put in that would clarify it?

Ms. Madisso: "Or put in a blind trust."

Mr. Morin: Or put in a blind trust.

Interjection: Where is the November letter?

Mr. Martel: You want to say "sell or put in a blind trust." Can we get the letter?

Mr. Warner: The reference is to the November letter, not the July 9 one.

Ms. Madisso: There is no confusion about the November warning to sell. Both Mr. Fontaine and Ms. Eberts agree on that. There is no conflict in their testimony about November. That is when they met to work on the blind trust. The conflict in the testimony, as I have indicated in the second part of that paragraph, lies in relation to the June-July letter. She maintains that she had told him already, whether it was early or whatever, and he does not say that. That is how I have indicated it. Mr. Fontaine agrees that he was told in November.

Mr. Morin: My concern is that it seems she said, "Sell your shares now."

Mr. Warner: That is what she said.

Mr. Morin: That is not exactly what the letter says.

Mr. Warner: In November.

Mr. Morin: Even in November. "Or put in a blind trust" is what I would like to see added.

Mr. Sterling: Mr. Gagné said it.

Mr. Warner: "Sell." Was that word not used?

Ms. Madisso: I do not know about Mr. Gagné.

Mr. Warner: Mr. Martin also said that in November he advised him to sell the shares.

Mr. Chairman: Let me try to get this straight. You are objecting to the portion of this paragraph that says, "Ms. Eberts states that this was at least the second time she had indicated that selling of the shares was necessary."

Interjection.

Mr. Warner: She was raising the sentence before that. It is the

testimony about the time Ms. Eberts stated that the Golden Tiger shares had to be sold. Mr. Morin is saying that is not what she said, that what she said was they had to be sold or put in a blind trust.

Mr. Chairman: Is that right, Mr. Morin?

Mr. Morin: He was not told in July to sell immediately, according to Mr. Gagné. According to Mr. Gagné, he was told to sell, but to sell eventually, not immediately. He was not told in July to sell immediately.

Mr. Warner: This paragraph is dealing with November.

Mr. Morin: Yes, but to sell eventually; so in November he is told.

Mr. Warner: In July, the letter says "sell or put in blind trust." In November, if I recall the testimony, Ms. Eberts then advised that he should sell. Mr. Fontaine does not dispute that this is what occurred. What is in dispute is whether he received the July 9 letter. The statement here is the testimony of both that at that time, meaning November 1985, Ms. Eberts stated that the Golden Tiger shares had to be sold. I understand that Mr. Fontaine agrees with that. Is that your reading of it?

Ms. Madisso: That is my reading.

Mr. Warner: The thing that is at contention is the following sentence where Ms. Eberts states it was at least the second time he had been warned and Mr. Fontaine says it was the first time, but they both agreed on the conversation which occurred in November.

Mr. Chairman: I believe it is accurate as written.

Ms. Hart: Mr. Chairman, can we check it?

Mr. Chairman: Certainly, we will check that. We will simply mark that section and redo the paperwork on that, but I think it is accurate as written.

Mr. Sterling: I think Mr. Martin gave evidence that he also advised Mr. Fontaine that he must sell the shares about that time.

Mr. Warner: This was done before Mr. Martin--

Mr. Sterling: No, I am just saying that--

Mr. Chairman: I am not sure how relevant what Mr. Martin had to say is to it all, though.

Mr. Sterling: It is a fact that--

Mr. Chairman: Whether a business associate said you had to do this or not--

Mr. Sterling: He seemed to understand the conflict-of-interest guidelines better than Mr. Fontaine did.

Mr. Warner: He said, "You are a cabinet minister; you have to sell." That was his testimony in his evidence.

Mr. Villeneuve: He made him sell.

Mr. Warner: Maybe it should be included.

Mr. Chairman: I will be in your hands, but my problem is, in the course of testimony here, I believe it was Mr. O'Connor who asked Mr. Martin that question. He confirmed it. I am not questioning that as an opinion. I do not even question that he did that. I am struggling to see the relevance of why the president of Golden Tiger telling somebody to do something has any jurisdiction or any meaning to this. You could say what Mr. Sterling said. A lot of people advised him to do things, only some are relevant for our considerations; Mary Eberts, obviously, is one.

Mr. O'Connor: It is important and relevant because it better enables us to assess what was going on in René Fontaine's mind, what he knew and did not know. If we have an additional person whom Fontaine says is a lifelong friend of his advising him in no uncertain terms to get rid of the shares, I think we can more easily conclude that he knew he should get rid of them.

Mr. Chairman: I would feel a little better if, in appearing before the committee, Mr. Martin was better able to recall the conversation. As I recall it, you purported to read him a series of questions done by a reporter for the Toronto Sun. In response, Mr. Martin said, "I do not remember giving an interview to the Toronto Sun; I thought it was the Globe and Mail."

Mr. O'Connor: He got the papers mixed up.

Mr. Warner: How could you confuse those two papers? Maybe you could.

Mr. Chairman: Do you see my problem?

Mr. O'Connor: No, I do not. In fairness, we have the tape and I offered to play the tape here to remind them of what he had said, and he said that was not necessary. I do not think there is any question in anybody's mind that is what he said. I can play the tape if you want.

Mr. Chairman: I am listening for objections from other members of the committee. It makes no difference to me, obviously. It is what I would classify as being not quite as solid as I would prefer to have it.

Mr. Villeneuve: It is important to note that the president of Golden Tiger found the buyer for Mr. Fontaine in order to liquidate his shares, and I think Mr. Martin as president of Golden Tiger also knew at that particular time that the shares had peaked and they were on the way down.

Mr. O'Connor: I think it is important that--

Mr. Morin: On one hand you quoted the Sun, and he says, "I have never spoken to the Sun." Shall we take that as--

Mr. O'Connor: Mr. Chairman, I will go and get the tape right now and we can play it if you wish. It is quite clear that he said that.

Mr. Chairman: I know what he said. That is not in question.

Mr. O'Connor: The first point is that--I have lost my train of thought because I was interrupted.



Mr. Sterling: It is important in terms of showing the attitude of Mr. Fontaine to the whole idea of conflict-of-interest guidelines and the fact that he was getting advice from various quarters to sell his mining shares. In my view, he paid no attention to the last paragraph of those particular guidelines in terms of what responsibilities did René Fontaine have to live beyond the guidelines as they might be. He was the mining minister. People who were involved in the mining industry were saying to him: "Look, René, you are the mining minister. You have to sell these shares."

15:10

Mr. Chairman: Let me try this on for size--

Mr. Sterling: I think it is relevant.

Mr. Chairman: I am about to give you your points. Do not argue with me. What I think may fly and be reasonable is to put the direct quotes from the Hansard of the day Paul Martin was here, when Mr. O'Connor asked that question and Mr. Martin replied. Is that a reasonable way to proceed? Just that small excerpt from Hansard?

Mr. Morin: There is one quote. Mr. O'Connor asked, "Were you not in fact urging him to sell as quickly as possible?"

Mr. Martin replied, "Maybe not quite that way, but he told me had until the end of December," referring to Fontaine.

That is what I was thinking about on page 15.

Mr. Warner: I do not have the Hansard in front of me. The quote that I recall was the one--it stuck in my mind--where Mr. Martin said: "René, you are a minister. You are a cabinet minister. You have to sell." It was something to that effect. I cannot remember the exact words.

Mr. Chairman: Yes. That is the one I was thinking about.

Mr. Warner: That quote is important. I understand you are perhaps nervous about having said the exact words or nervous about the credibility of the witness. On the other hand, he testified under oath. He is president of the company and he is a friend. He clearly sees there is a conflict of interest and he is saying: "René, you are a cabinet minister. You have to sell."

I think it is important. The only reason not to put it in is if there are serious doubts about the credibility of the witness. In my mind, that would be the only reason not to include it.

Mr. Chairman: We are trying to find the quote.

Mr. O'Connor: Getting back to our initial guideline on doing this section of the report, as I understood it, if it is a fact and it is uncontroverted--and it is a fact and uncontroverted--that those words were said, I think it should go in. If we then start to assess weight to it or qualify it, that is something that should be done in the conclusion or summing up part.

I do not think we can say at this point that because he may not be as reliable a witness as Mary Eberts, we should not quote him. That is something

we can conclude later on perhaps, but right now I do not think there is any question that he said the words. I agree entirely with you, Mr. Chairman, that the fairest way is simply to put in the excerpt that I introduced in written form.

Ms. Hart: If my memory serves me, it is not uncontroverted. Did not Mr. Fontaine deny he had had that conversation?

Mr. O'Connor: He denied it was said, but it is uncontroverted that Mr. Martin said it. He agrees that he said it, and it is on tape.

Ms. Hart: If you are going to put it in, you should put both in.

Mr. Chairman: We can separate it this way. We will not have a problem including an excerpt from Hansard for the day Mr. Martin was in front of the committee. The reason it is not in here--and I am having some difficulty with it--is that I am aware that the statement has been challenged publicly. That is my problem.

Mr. O'Connor: So has Mary Eberts's statement, right here, and it is already in.

Mr. Chairman: If you are satisfied with attempting to search out the day's Hansard and putting that small excerpt in here, we will be on reasonable grounds, but if I hear an objection to it, then we are going to have to deal with that. Is there an objection?

Ms. Hart: Yes. Mr. O'Connor is quite correct that there was a difference between Ms. Eberts and René Fontaine, but that is in here. If you put in just Mr. Martin's statement and not the fact that it was challenged, then you are leaving an incorrect impression.

Mr. O'Connor: We can put that in. I agree. That is fair.

Mr. Chairman: Okay. We will quote the two. One is the testimony of Paul Martin before the committee. What is the other one?

Mr. O'Connor: Mr. Fontaine's evidence is that Mr. Martin never said that.

Ms. Hart: We will have to check that statement.

Mr. Chairman: It may take us a little while to search for that, but that is what we will try to put, and we will put that on or about page 15. We are looking for two quotes, one from Martin and one from Fontaine.

Is there anything else you think would be appropriate to state here?

Mr. Sterling: I guess I would have preferred a section on the trust agreement. There is nothing in here that indicates Mr. Cloutier's role. Is there any mention at all?

Mr. Chairman: This was drafted before he appeared before the committee.

Mr. Sterling: I think we knew that before from other testimony. I am just saying I think it is irrelevant.



Mr. Eichmanis: We were asked this morning to update the draft.

Mr. O'Connor: In that regard, I take it there will be a combination by taking some of the evidence from subsequent witnesses and weaving it into what is here; in other cases, it will be a new section on the back.

Mr. Chairman: Yes.

Mr. Eichmanis: I cannot tell at the moment, but once we start into it--

Mr. Chairman: On the draft document you have now, we have taken some notes of word changes and additions that you have indicated to us. Is there anything else you think ought to be included in the statement of fact? The second draft would include testimony that came subsequent to this draft.

Mr. Sterling: I think we should have the dates as to the witnesses who did appear in front of us.

Mr. Chairman: We have a list of witnesses.

The other document that would normally appear is a list of witnesses. We will probably try to do an inventory of documents that were tabled with the committee as well. The normal process would be a statement of the motion of transmittal to the committee, witnesses appearing, documents submitted. Those appendages would be put to this.

We did respond to a request from Norm Sterling to have Merike do a legal opinion on section 10 and section 11 of the Legislative Assembly Act. You have a copy of that and you had indicated you would probably want to include this. It could be worked into the text of the report itself or it could simply be added as an appendage, as another document that was tabled with the committee. What is your preference on that?

Mr. Sterling: The problem is that we have two legal opinions on it. Is that right, Merike?

Mr. Chairman: There are some of us who do not see that as a problem.

Mr. Sterling: I realize that, but I think it should be stated that there are varying opinions on section 10 and section 11.

Mr. Chairman: When Mr. Wright was here, he indicated very clearly he had one opinion and not everybody would agree with that.

My inclination would be to add this opinion from Merike to the report; not work it into the body of the report but simply add it. Is there any discussion over that?

Mr. Sterling: I guess there is. I think it leaves the public with the opinion that if I owned a partnership, or putting it in the context of this particular hearing, if I was a sixth owner of a partnership, if I was in with six partners and I was going to deal with the government for a public works contract, from Merike's interpretation, I could avoid the conflict of interest guidelines merely by incorporating that partnership. Therefore, I could go around and fall within clause 11(1)(b).

Ms. Madisso: Not if it is a public work that you are constructing.



That is the exception part to the exception. Even if you are incorporated, if you are constructing a public work, you will be in breach of section 10.

Mr. Sterling: In terms of the FMA, there would be a difference in the two that I was saying.

Ms. Madisso: My point is that the FMA is not a public work; it is an incorporated company. Therefore, both the breach and the exceptions to it are covered.

Mr. Sterling: If Hearst Forest Management Inc. is a partnership of six individuals and it was dealing with the government, it would then be caught under this section, would it not?

Ms. Madisso: What would it be doing, building a public work or not?

Mr. Sterling: It would be dealing with the government for \$40 million or a potential \$40 million or \$10 million or whatever.

Ms. Madisso: The exception to section 11 says public works.

Mr. Chairman: They would be building public roads, for example.

Ms. Madisso: I understand that is part of the FMA process, but I do not think that one fact makes that a public work.

15:20

Mr. Sterling: I do not think whether it is public or not public is relevant.

Ms. Madisso: It is.

Mr. Sterling: I know. I guess what I am trying to say is, can you avoid the section by incorporating?

Ms. Madisso: You can unless you are constructing a public work; then it will not make any difference. If you read clause 11(1)(b), "No person is ineligible as a member...by reason of his being a shareholder...in an incorporated company...unless such contract or agreement is for the building of a public work of Ontario, and such building or work has not been let by tender to the lowest bidder."

Mr. Sterling: You viewed the FMA as not being a public work.

Ms. Madisso: That is right.

Mr. Sterling: If you had viewed the FMA as a public work?

Ms. Madisso: Then he would be caught.

Interjection.

Ms. Madisso: No, not in the legislative sense, I guess.

Mr. Sterling: I just do not like to be left out there like--

Ms. Madisso: This is a public works act and that is defined in there.

Mr. Martel: Would you put the FMA as failing under that? I do not know. That is why I am asking.

Ms. Madisso: If you look at the opinion, you will see that I acknowledge the fact that roads are built, but I do not think the purpose of the FMA agreement under the Crown Timber Act is for the building of roads. The authorizing section of the act makes that clear. I have quoted that. Second, if you look at the draft agreement itself, it does not say that the purpose of this agreement is the building of roads.

Mr. O'Connor: But the trees (inaudible).

Mr. Martel: On the construction of roads, if I understand it, and I could be wrong, the whole of the FMA was brought in to enhance the regeneration and the cutting of wood. That is why I was stressing that there is value. As you know, I did not agree with either of the parties that were here in terms of the value, because where you put a road has a great bearing on where you are going to cut. Part of the purpose of the FMA is to enhance cutting where it is of value to get wood out that otherwise might age beyond the point where it was useful and so on. The whole point of the FMAs was to enhance the orderly regeneration and the orderly cutting of the forests, which would include the construction of roads. I also disagree; I do not think it is a public road.

Mr. Chairman: Some would be and some would not be.

Mr. Martel: In fact, a company can put a road off limits just like that. It puts a bloody gate up and that is it; you cannot go through it. At certain times of the year, they will not allow you on it, so it is not a public road. All kinds of forest roads have been made that are not public; they are private.

Ms. Madisso: I think under the FMA, this road will become a public road under the Public Lands Act.

Mr. Martel: After they have finished cutting the area over. During the time they are there, to prevent accidents or injuries, most of them are private and not public for a certain time of the year anyway, to my knowledge. I have been involved in I do not know how many of them where people want to use a road and the company has put up a gate. It is at this stage of the game. Because we have put in public money, eventually it might have to be opened up, but not necessarily always.

Mr. O'Connor: This whole discussion of a public work is interesting and perhaps more work should be done in defining what a public work is. Mr. Fontaine and others argued he was not going to make any money in all of this and that the whole purpose of the FMA was for the benefit of the public by the regeneration of forests, which are public lands and public trees, and by providing jobs and economic revival in that area. Aside entirely from the specific roads, looking at that whole undertaking, if you accept Mr. Fontaine's evidence, it comes pretty close being to what I thought was a public work. I do not know the exact definition of same.

Mr. Chairman: I think the problem that would come up is that the traditional definition of a public work might not apply here, but in entering into a forest management agreement, it is rather obvious they are taking on some things which previously would have been seen as the obligation of the government, that is, a public work, so somebody would have to redefine. In the



traditional sense of building bridges, roads and stuff such as that, it may be a little off the mark, but in the broader sense, I think somebody might contest that.

Mr. Martel: Over the past 40 years, it has changed four times. It has gone from the government to the private sector, back to the government when they screwed it up again, and now back to the private sector, which screwed it up 20 years ago.

Mr. O'Connor: That is an opinion.

Mr. Chairman: It is not even a legal opinion.

Mr. Sterling: If this were an advertising contract, is that a public work?

Ms. Madisso: No. It is for the building of a public work of Ontario. Advertising is not building.

Mr. Sterling: Let me place this scenario to you then. If Elie and I are in a partnership--

Mr. Martel: You will make money if I am there.

Mr. Sterling: We are both MPPs. If Elie and I are in a partnership and we contract with the Ministry of Industry, Trade and Technology for an advertising contract, I assume I cannot do that under section 10.

Ms. Madisso: That is probably correct for an advertising contract.

Mr. Sterling: However, if Elie and I incorporate and call it Sterling and Martel or Martel and Sterling, whichever--

Mr. Chairman: Martel and Sterling, obviously. Seniority has some point.

Mr. Sterling: Can we then do it without jeopardy under the act?

Ms. Madisso: I think so because you are not building a public work of Ontario.

Mr. Sterling: That is what Blenus Wright informed us.

Mr. Chairman: I do not think you would get away with for it for very long. Whether or not it was legal at a given moment, I think the moment that happened, it would be stopped. Members would certainly raise that.

Ms. Hart: Are we not pointing out that there are deficiencies in the Legislative Assembly Act?

Mr. Chairman: Yes.

Ms. Hart: I personally have made submissions to Mr. Aird on that very point, that partners are treated differently to incorporated companies and that is going to give us a problem under the Charter of Rights, but that really does not have anything to do with what we are doing here now. That is perhaps in the next stage of this proceeding when we are talking about how to make things more exact.



Mr. Chairman: I suggest it is appropriate to include this legal opinion as part of our report, and we may well speak to the fact that the Legislative Assembly Act has not exactly been kept au courant and needs to be changed substantially. I am sure Mr. Aird will deal with matters such as this in his report.

Interjection.

Mr. Chairman: You asked for it, so now you have it.

Mr. Sterling: Blenus Wright said one thing, and we are getting a legal opinion another way. As I understood when we started, part of our mandate was the Legislative Assembly Act. We have conflicting legal opinions.

If Mr. Fontaine is to remain as a member and the FMA is to be signed eventually, my view is that the report maybe should say that a resolution of the House should be passed to exclude, if the House so desires. That is what section 10 says, "Except as authorized by resolution of the assembly, no person," etc. I do not know. I think it is a loose end. It is there, and I think it is something we have two legal opinions on and that we should address in the report.

Mr. Chairman: I have no objection to that; I am just trying to get you to decide how you want it put together.

Mr. Sterling: If we are going to deal with one legal opinion, I prefer the report to point out that it is not the only one.

Mr. Martel: Why do you not include Blenus Wright's opinion in the report by just putting in Hansard?

15:30

Mr. Chairman: It could be that, or if he chooses to provide a written opinion, we could use that.

Mr. Sterling: That would be fair.

Mr. Warner: For my money, something that needs to be kept in perspective is that, while it is important to ask for a legal opinion, which we have received, we recognize that Blenus Wright has a differing opinion, which we do not yet have in writing, other than his testimony.

As members, we still have to make a decision. There were two parts to the mandate. One was to determine whether Mr. Fontaine broke the Premier's conflict-of-interest guidelines. The other was to determine whether he violated sections 10 and 11 of the Legislative Assembly Act. Each of us has to make a decision on that. No matter whether you have 100 legal opinions about the act, you still have to interpret it on the basis of the evidence you have in front of you. Otherwise, we would have only lawyers serving in the assembly.

Mr. Martel: We would really be in trouble then.

Mr. Warner: It may be a good thing; it may be a bad thing.

Mr. Chairman: When we started, we said the two pertinent boundaries for discussion would be the conflict-of-interest guidelines laid out by Mr.

Peterson for his cabinet--that is obviously one--and the Legislative Assembly Act itself. Within those very broad parameters, motions about whether he was in conflict with section 10 or section 11 or broke the guidelines and stuff like that are clearly fair game. If you went beyond that, I indicated you would be struggling to make it relevant to the committee. However, those two things are undeniably before the committee: (1) because of a direct motion of the Legislature saying this matter on conflict of interest is there, and (2) because you cannot escape the Legislative Assembly Act; we are all members governed by that act. That is clearly in front of us as well.

We can set it aside for a moment, but I would say the indications are that this legal opinion would be part of the report. It may be accompanied by a second legal opinion if we can get it from Blenus Wright, or it may be accompanied by some excerpts from the Hansard of the day when he appeared in front of us.

Mr. Martel: That would put him in the spot of having to make a--maybe we should include the appropriate section of Hansard.

Mr. Chairman: The only reason I would offer him the opportunity to write it out at somewhat more length is that, for example, when Merike did her reasoned argument here and came to a legal opinion, she was unfettered by members asking her questions on the way through. Mr. Wright, unfortunately, had to put up with interjections, questions and stuff like that. He might appreciate the chance to sit down and quietly and thoughtfully write his opinion out at some length.

Mr. Martel: If he felt as a civil servant that it was unfair to put that in, one might just use his testimony.

Mr. Chairman: Yes. That would be the alternative.

Is there anything else on which you want to give staff directions or that you think should be included? We have done reasonably well at getting to the first part of the document.

The second draft will include the remainder of the testimony. We will try to have a document for you tomorrow that outlines the perceived conflicts or perceived discrepancies. We will get to that tomorrow. Is there anything else that people want us to try to present to you?

Mr. O'Connor: Is the Friday afternoon appearance settled?

Mr. Chairman: Let me just get through this. Tomorrow we will sit in the afternoon. I have a little bit of concern that we had agreed to sit from 10 to 12 and from two to four. That gives us four hours, which is a good piece of time. Would it be possible to sit tomorrow from one to four? We may not need three hours, but just so that we have an opportunity to do it. Is that agreeable? We will start tomorrow at one.

The next problem is that we invited Mr. Fontaine to appear Friday at two. In effect, we said it would be at his convenience. He did rearrange his travel schedule and is returning to appear in front of the committee Friday at two. I have some members of the committee who have a conflict. At this point, I do not quite know how to proceed. We invited him to appear on Friday at 2 p.m. I have some members of the committee who have a conflict. I recall Mr.



O'Connor mentioning there was this conflict, but I did not hear a great hue and cry that it would not be possible; so I did proceed on the basis of that to allow him to appear at his pleasure.

The quandary I am in is that now I have three or four members of the committee who may not be able to be here Friday afternoon. I am going to need some assistance from you. I am in some difficulty here. Help me out.

Mr. O'Connor: Have we had any communication with Mr. Fontaine about the feasibility of his coming on Monday instead of Friday?

Mr. Chairman: We checked earlier in the week about trying to get him here for Thursday evening. That was not possible. Do we have anything else to report?

Mr. O'Connor: Mr. Chairman, I suggest it is always easier to rearrange one's schedule to put something off than it is to try to fit it in. Asking him to put it off until Monday when he is probably here anyway, his holidays are over, might not be that difficult a procedure; similarly with Mr. Martel. I know he has gone to a lot of work to get here on the Friday, but now having it available to him again, I am sure is a lot less work than the first time through.

Mr. Morin: We all made a sacrifice. We all made a decision. I had to cancel all kinds of things to be here on Friday. Why do you not make up your mind and say it is going to be on Friday and that is it. You are the chairman. You know we have all tried to arrange our schedules to see Mr. Fontaine on Friday. One person now arrives and we have to change our schedules because of him. I could have raised the same issue, the same question. I did not because I saw the importance of hearing Mr. Fontaine on Friday.

Mr. Martel: I will tell you my concern, and you cannot abide by my problem, but it is all of our problem. As I indicated to you Thursday, the chairman of this committee is also chairman of the NDP caucus, which is meeting in Thunder Bay. We are already tied into the possibility of having to forgo Thursday if we are going to get the report done. That is a reality.

If we get Mr. Fontaine in on Monday, the chances of getting done by Wednesday or Thursday become more remote. I do not know if you want to come back the week after, but the week after I cannot be here for the first three days because I am on the standing committee on public accounts with my friends from the Industrial Accident Prevention Association, about which I have raised some little to-do, and the Construction Safety Association of Ontario.

The public accounts committee has centred its hearings on those days and is in the process now of updating its agenda because some of its business has fallen through. They are bringing in both the IAPA and the construction association on Monday and they are attempting to bring them in on Tuesday of the following week. We are in a real time bind as well. Although unhappy about it, some of us may have to stay Thursday and fly to Thunder Bay some time Thursday during the day, if we should finish. But for the chairman of the caucus to miss the whole meeting on Thursday and Friday--

Mr. Sterling: Might be very progressive.

Mr. Martel: We might get some work done, but he loves Thunder Bay. It just gets more confused. I understand your dilemma.



Mr. Sterling: The annual meetings of your party are very important events and, notwithstanding a caucus or whatever, I would much rather miss a caucus because I can meet with my guys the next day or the following week or whatever. Notwithstanding any kind of event, when the members of my political party go to a meeting, I want to be there because it is very important. It is probably the most important part of a party's whole makeup on anything. I do not think hearing him on Monday morning, if that is possible, would make that much difference to hearing him on Friday night.

Mr. Chairman: My problem is simply this. Last week the committee said "at his convenience." I reported that Friday was at his convenience. He has now gone to rearrange his schedule to appear in front of us Friday afternoon. I am really reluctant to call him up again and say, "They have all changed their minds and they cannot now be here on Friday." That is my difficulty.

I know we traditionally try to work around everybody's schedules, caucus meetings, conventions and all that, but essentially we are asking that you miss one afternoon of the conference. If that is intolerable, I suppose we have to live with it. If we had been able to identify earlier that Friday was absolutely not possible, it would have been a different thing. Since we have gone to the bother of inviting him to come back at his convenience and we knew it was Friday afternoon, I would prefer to stay with the schedule.

15:40

Mr. Sterling: Personally, I do not know whether I can be here. That is my problem. I may have to be at the convention, depending on what events take place.

Mr. Chairman: I think that is a given. For example, Mr. Bossy has indicated he has problems. Mr. Treleaven is absent this week. I am running into so many difficulties trying to accommodate everyone that, frankly, at this point I cannot do it any more. We are going to have to decide among ourselves where we go and what we do, and we will try to depend on others to make the decisions.

Mr. Sterling: I think we should try to get hold of Mr. Fontaine and see whether it would be a great inconvenience for him to show up Monday morning. We are planning to be here to write the report anyway, are we not? Let us try to contact him.

Mr. Chairman: The best I could do is to ask, but I do so reluctantly.

Mr. Sterling: If he cannot, he has to be heard; he has to be here. We will do whatever we can.

Mr. Chairman: Is there any further business that has to be addressed?

Mr. Bossy: With regard to all the juggling, I know how important it is to get this thing over with and to try to be accommodating, but as you said, we all have our problems. I have missed only two hours of the entire proceedings since the beginning. I cannot be here Monday. I cancelled everything this week. I had some extremely important functions happening; I cancelled them.

I have no problem trying to be accommodating, but perhaps we can get Tuesday and Wednesday and set firm, full days to deal with this matter. We seem to be getting a half day here and a half day there. Set the days firmly and everybody should comply and cancel everything. I have not heard anything about Tuesday or Wednesday being a real bloc.

Mr. Chairman: There are four committees sitting on Tuesday and Wednesday of next week.

Mr. Bossy: This has happened already since we have been sitting.

Mr. Chairman: The problem may be that your caucus cannot staff five committees. That has been the admonition from all the House leaders I have had so far. When we get more than four committees sitting, we do not have enough members to accommodate them. Frankly, it is your caucus and my caucus that have the problem. I would be prepared to go to the House leaders and see whether it is possible for us to sit Tuesday and Wednesday, but I am telling you what their admonitions were previously.

Mr. Bossy: We of our caucus on the committee have pretty well adjusted and been very co-operative all the way through. We would like to be co-operative. The New Democratic Party has two days; the Conservatives have one or two days. We have not had that kind of problem. How many times during the proceedings since the beginning has our caucus had the problem of manning the committee? We have been here as faithfully as possible.

Mr. Chairman: The best I can offer you is that we will attempt to contact Mr. Fontaine and see whether it is possible. I have my doubts and I thought it was important that you get advance warning. That is the schedule. We will sit tomorrow afternoon at one o'clock.

The committee adjourned at 3:46 p.m.





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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

ALLEGED CONFLICT OF INTEREST

THURSDAY, SEPTEMBER 18, 1986



STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

CHAIRMAN: Breaugh, M. J. (Oshawa NDP)

VICE-CHAIRMAN: Mancini, R. (Essex South L)

Bossy, M. L. (Chatham-Kent L)

Johnson, J. M. (Wellington-Dufferin-Peel PC)

Laughren, F. (Nickel Belt NDP)

Martel, E. W. (Sudbury East NDP)

Morin, G. E. (Carleton East L)

Newman, B. (Windsor-Walkerville L)

Sterling, N. W. (Carleton-Grenville PC)

Treleaven, R. L., (Oxford PC)

Turner, J. M. (Peterborough PC)

Substitutions:

Hart, C. E. (York East L) for Mr. Mancini

O'Connor, T. P. (Oakville PC) for Mr. Treleaven

Partington, P. (Brock PC) for Mr. Turner

Villeneuve, N. (Stormont, Dundas and Glengarry PC) for Mr. J. M. Johnson

Warner, D. W. (Scarborough-Ellesmere NDP) for Mr. Laughren

Clerk: Mellor, L.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Madisso, M., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Thursday, September 18, 1986

The committee met at 1:12 p.m. in committee room 1.

ALLEGED CONFLICT OF INTEREST  
(continued)

Mr. Chairman: We are ready to proceed for the afternoon. Before we get started, let me bring you up to date on a couple of things.

At the end of yesterday afternoon, we said we would try to rearrange the appearance of Mr. Fontaine from Friday to Monday. It turns out that is not possible; so he will be here as scheduled on Friday at 2 p.m.

I do not have much to report on next week's schedule except that we have concurrence from the House leaders to sit on Monday, Thursday and Friday.

Clerk of the Committee: I do not see any problems with this, but there are three members from here on the standing committee on administration of justice and three members on the standing committee on the Ombudsman, and both those committees are sitting Tuesday and Wednesday.

Mr. Chairman: So far, we can sit Monday, Thursday and Friday. We continue to talk to the House leaders about Tuesday and Wednesday. That gets very complicated because there are other committees in session. We will try to get an update for you this afternoon. As it now stands, it appears the only day next week that is clear of conflicts from virtually all points of view is Monday, and Mr. Bossy has indicated he has a problem with Monday. We are aware that the Liberals have a caucus meeting on Monday evening.

We will have to keep trying with the House leaders to see what arrangements can be worked out. The difficulty is that there are four committees in session next week. There is a lot of difficulty in rescheduling and finding people to substitute on various committees; so we are encountering some difficulties there. That is the best I can report right now on that matter.

Are there any other matters that people want to get on the record now?

Mr. Bossy: My problem has mainly been resolved. As long as René appears, I want to be here when he appears. I will have a replacement if you should schedule Monday.

Mr. Sterling: René is coming when?

Mr. Chairman: Mr. Fontaine will appear on Friday at two. We can leave it this way: For now we have cleared Monday; that day is reasonably safe. We will sit on Monday at 10 and two. We will try to work out some other possibilities for sitting days next week, but it is getting very difficult. Let me leave it at that. By tomorrow we may have a better answer for you.



I apologize for all this, but there is not very much we can do. We are asking for extra sitting time, the committees have a full schedule going and it is becoming very difficult to staff the committee.

Mr. Morin: Monday for sure?

Mr. Chairman: Monday for sure. To be continued. The Young and the Restless has been running like this for 20 years, day to day; it goes on just fine.

Yesterday you asked for two things. One was a second draft of the chronology of events. We went through the first draft yesterday. The second draft is being copied now and will be here some time this afternoon.

Also, you asked the staff to line up the apparent contradictions in testimony we have heard and to try to outline those as best we can. I am going to ask John and Merike to take us through this document, which you now have. For the most part, they attempted simply to use quotations and excerpts from Hansard and various documents. John, could you take us through that, or Merike?

Ms. Madisso: We did separate sections; so I might as well do all of them.

I think this is pretty much self-explanatory. We selected three situations that we thought were direct contradictions. There are a number of situations where there are various testimonies--you might have two people saying one thing, one person saying another and so on, and there is a question of weighting--but these seemed to be the ones the committee has been most interested in, the most glaring problem areas.

The first one is the whole question of when Mr. Fontaine was informed about selling his shares. As you remember, yesterday when we discussed the draft report there was a paragraph in there too. It is the conflict in testimony between Ms. Eberts and Mr. Fontaine. She is saying she notified him in June or July, when she sent a letter, and he is saying he heard from her first in November and then in early December he gave instructions to sell and sold.

In connection with that, there is a bit of testimony from Mr. Gagné on that, also testifying that in June or July, by means of a copy of that Eberts letter, he was made aware that the shares had to be sold or put into a blind trust "at some time in the future," to use his words.

Mr. Martin testified on the same point, if you recall, saying that in his conversations he was not able to be specific about time, as I understand the transcript, but at some time between May and December 1985, Mr. Fontaine told him the Golden Tiger shares had to be sold by the end of December 1985.

That is the first issue. I have included copies of Mr. Fontaine's statement before you on July 23, where he makes his two assertions. In point 8 on that first page, he says, "Towards the end of November, Mr. Gagné received a telephone call from Ms. Eberts advising that I should sell my shares in Golden Tiger." Then point 9: "It was solely as a result of this advice, which I accepted, that I gave the instructions to sell." On the next page, he says, "In summary, as soon as I was advised to sell my Golden Tiger shares, I did so."

Then there is the Hansard--I have marked part of that for you--starting with Mr. O'Connor's question: "He said quite the opposite. The first time anybody told him to do that was in late November."

'Ms. Eberts: "That is too bad. On the basis of my present recollection, I am telling you what I recall." She is saying she notified him before the November meeting.

13:20

On the next page, she says she became involved with Mr. Fontaine and his business affairs again in November when she was asked to set up a blind trust. Mr. O'Connor said: "Did you tell him to sell his shares then?" "I did."

Her testimony is that she told him twice. His testimony is that she told him once.

Mr. Gagné in his statement refers to it too, although he is not specific as to time. "At some time in the future" is his phrase. That is his statement. In his testimony on August 12, he said: "I got my information in June or July. Eventually, he would have to sell or put them in a blind trust." Eventually--no specific time.

On the next page we find out where he got that information. He got a copy of the Eberts letter. "She sent me a copy in which it was written that eventually he would have to sell his shares in Golden Tiger or put them in a blind trust."

Those are the central pieces of testimony in connection with that issue.

Mr. Morin: Could you attach a copy of Ms. Eberts's letter to Mr. Fontaine?

Ms. Madisso: Yes, I could have done that. I did not have a clean copy. You all have copies. That is why in the rush we had to produce this I did not attach it. I can get you another copy quite easily, Mr. Morin.

Mr. Sterling: I do not know how much testimony you put in here about Mr. Fontaine insisting that he had no advice from Mary Eberts to sell, but if you read his testimony with regard to the questions I put to him on the morning of July 24, at M-9, I gave him every opportunity basically in my questioning to reconsider. I do not know whether that is evident in terms of the way the particular statements come out.

I will read this over for you. I do not know how many times René said no, but he did say no, not only those times but also a number of other times. I am reading from--

Mr. O'Connor: Maybe I could interrupt here, Mr. Chairman. At your request yesterday, we have done some research similar to what Merike has done, although there are slightly different quotes on some of these things. We have copies of them, and perhaps I could pass them out.

Mr. Chairman: Let me intervene for a second. I expressed the opinion yesterday that I have a little bit of hesitation about having staff do this. The staff was agreeable and the committee wanted to do it; so I thought fine. Let me make a little pitch today. Let us let them get their findings on the



record, and then everybody else can put whatever they want on. You can pull old Hansards, you can pull documents and do whatever you want; but let them have one clean sweep at going through the areas they identified as being contradictions and then they will step out of the picture and everybody else will have a chance. Is that reasonable?

Mr. Sterling: You do not want to do it issue by issue?

Mr. Chairman: No. I would rather not intervene as they go through. Let them have one shot at putting this on the table and then we will all have our turn.

Ms. Madisso: Maybe I could say we were selective in the Hansards that we chose as being the most pointed ones to the issue. We did not include every reference in Hansard. You would have had too much to deal with, we thought. We took what we thought were the most specific allusions to the issue. That is why we have two or three.

Mr. Sterling: I appreciate that. I guess central also to the issue is how many times was he asked the question and how many times he said no. I think that is important as well.

Mr. Chairman: Okay. Go ahead.

Ms. Madisso: The second one I dealt with was the testimony of Mr. Fontaine and Paul Martin.

Mr. Martin testified that Mr. Fontaine would have known about the projected underwriting, because the process started when Mr. Fontaine was a director of Golden Tiger, because it was public knowledge and, third, because the information may have appeared--he is not specific on this in Hansard--in the company's quarterly reports. Mr. Fontaine stated he did not know that before he talked to Mr. Martin in December 1985. There does seem to be a conflict there.

Second, further to that whole discussion of the underwriting issue, Mr. Martin states that the quarterly reports of the company were sent to shareholders. Mr. Fontaine stated that he had seen Golden Tiger documents for at least two years. You will see from the Hansards that the discussion goes on for about a page and a bit here, starting at the bottom with Mr. O'Connor's question, "Did you ever discuss Golden Tiger with him?" You will see on the next page:

"Mr. Fontaine: Not before I talked to him in December.

"Mr. O'Connor: Not before you talked to him in December.

"Mr. Fontaine: No."

The December date seems to be the deciding one in his testimony. The discussion continues on the next page. I included all of it for you, because there are references back to it from time to time.

The next segment of Hansard is incorrectly labelled as August 23, 1986, afternoon sitting; it is July. It is the continuation of Mr. Fontaine's testimony. At the bottom, you see Mr. O'Connor asking: "Nor with the \$1.4-million undertaking? Nor did he urge you to sell your shares?"



Mr. Fontaine replied: "I said at the time he told me everything, in December, he talked about the \$1.4 million." So, again, it is December.

"Mr. O'Connor: Yes, but prior to that he had not.

"Mr. Fontaine: No."

The next excerpt I have is in French and Mr. Fontaine says he has not seen Golden Tiger documents for at least two years. Mr. O'Connor was questioning him about who was receiving mail in the same mailbox in which Mr. Fontaine was receiving mail. Mr. O'Connor asked whether there would not have been a number of items that went to that same box and whether Mr. Fontaine, therefore, would not have seen those items. He says he did not see them. Mr. Martin testified that there was notice to shareholders in the form of quarterly reports, but not in the form of a prospectus for the underwriting.

Those are my two sections.

Mr. Eichmanis: Item 3 deals with the discussions Mr. Fontaine may have had with respect to the FMA for Hearst. It indicates that on January 30, 1986, in the House Mr. Fontaine indicated that he has had no involvement since May. This statement was made on January 30, but he does indicate he has had no involvement in the company and that he has placed the shares in a frozen blind trust.

In July, when Mr. Fontaine appeared before the committee, Mr. Sterling asked the question, "Since becoming a member of the Legislature, have you ever talked to the Ministry of Natural Resources about the FMA at Hearst?" Mr. Fontaine's reply was that he crossed the floor one day to ask Mr. Harris about the matter and that was the only time he had discussed it.

In response to another question, Mr. Fontaine stated he had kept away from United Sawmill and Hearst Forest Management, and there is a direct quote there indicating he did so and that he then put everything in a blind trust.

On September 11, Mr. Therriault appeared before the committee and stated that Mr. Fontaine had met with him on four occasions during 1986 and indicated the four occasions when those meetings took place.

There is also a reference here to Mr. Cloutier's statement that he had telephoned Mr. Fontaine on April 22 to tell him of the problems with the FMA as these related to the inclusion of Mr. Levesque.

Of the supporting documentation, the first page is the January 30 statement of Mr. Fontaine in the House. The following one, in the upper half of the page, deals with the question posed by Mr. Sterling to Mr. Fontaine as to whether he had discussed the FMA with the Ministry of Natural Resources and his reply.

On the following page, at the bottom, is the discussion between Mr. Sterling and Mr. Fontaine on his involvement in the companies. On the top of the following page, marked M-2, there is his reply; namely, he states that he had kept away from them.

13:30

Following on that, I have included the memos to file from Mr. Therriault on the four occasions when Mr. Therriault indicated he met with Mr. Fontaine.

Following on that is the statement made by Mr. Cloutier when he appeared before the committee, indicating that on April 22, after a meeting, he phoned Mr. Fontaine to indicate his concern about the FMA and the difficulty of including Mr. Levesque in the proposed FMA.

As Merike indicated, there are a number of other instances where we had some difficulty on deciding whether there were conflicts. I do not know whether the committee wants us to talk about those, but there are other instances.

Mr. Chairman: You have picked out three where there are clear conflicts. The first can be identified as the conflict about when he was advised to sell or put into a blind trust his shares in Golden Tiger Mines.

The second is essentially whether he had knowledge of the underwriting of Golden Tiger, which might subsequently affect the value of the shares, and when such knowledge might have been reached.

Finally, there is what I guess we would categorize as his relationship concerning the FMA for Hearst Forest Management and whether he acted on behalf of Hearst Forest Management or United Sawmill, or in any capacity other than what one would normally expect the minister to do.

Those are the three major areas of concern. Perhaps you can quickly run over other areas of conflict that you have determined.

Mr. Eichmanis: There is the matter of the timber licences. Mr. Fontaine's testimony is that timber licences were dealt with by his staff and the field people of the Ministry of Natural Resources and that they were the ones who in fact decided the defunct companies should continue to have those licences. Mr. Markus, when he appeared before the committee, indicated that as far as the head office was concerned, it did not know anything about this and that this was not its policy. When Mr. Cloutier appeared, he indicated that he and his staff people at the local level were the ones who were worried about the licences.

On the one hand, you have the head office people in Toronto saying they did not know anything about this. On the other hand, you have Mr. Fontaine and Mr. Cloutier seeming to agree it was something done at the local level and that was where the decision was made on whether those defunct companies should continue to hold licences.

If Mr. Markus had said this was policy, and if it was a policy that the field officers knew and were told to implement, there would be a clear conflict. As far as I recall the testimony of Mr. Markus, he said the head office in Toronto did not know about this. I do not know whether the committee would view this as a conflict.

Ms. Madisso: In connection with the timber licences, there was the whole question of whether there was more wood allocated to United Sawmill via the amalgamated companies before they amalgamated through the FMA and so on. Mr. O'Connor produced a document, there was the response from Mr. Markus and there was another response from Mr. Cloutier on that point. Again, I do not know what the committee feels is at fault here in connection with the actual cordage involved in this issue. It is not precisely the same order of conflict in testimony as we have listed here.

Mr. Chairman: Were there any other areas?



Ms. Madisso: I can think of small things. Mr. Fontaine said in his testimony that Mr. Gagné was over his head with this assignment. Mr. Gagné was asked, "Do you feel you were over your head?" He said, "No." It is a very judgemental thing. Mr. Gagné does not feel he was over his head, but is this a direct conflict in testimony? I do not think it is of the same order as these items.

Mr. Eichmanis: I suppose there is the final thing, which is the question of the dates in the guidelines. Mr. Fontaine thought he could comply with the guidelines by the end of the year, by December. We had testimony from Mr. Wright indicating that there was some flexibility in this and that the dates mentioned in the guidelines, about a month and 60 days or whatever it was, were for disclosures to him and not public disclosures. There is some confusion there about how you interpret the guidelines as to when the disclosure should be made and to whom and when the thing should be public. I am not sure that is necessarily a conflict in testimony.

Mr. Martel: That one is relevant. I am not sure about the difference in how many cords of wood you had; that is merely a difference of opinion between staff and so on. It seems to me that one might be drawn together, the dates on which the guidelines were to--you will recall that early in the hearings we had difficulty trying to understand whether they were talking about December 31 or about October 1 or thereabouts. That was the other date that was bandied around and we could not seem to get a handle on it.

Mr. Chairman: To summarize, from the staff's point of view there appear to be three major areas of contradiction: When he was given advice either to sell or to put into a blind trust the shares in Golden Tiger; in effect, whether he had some knowledge of whether the shares would increase or decrease in value because of an underwriting; and participation on his behalf concerning the forest management agreement.

From the staff's point of view, you may wish to consider the licensing procedures of the ministry, the wood allocations, the assessment of what I guess you would say was the competence on the part of the people who worked for him and the somewhat confusing matter of dates and conforming with guidelines.

Mr. O'Connor, do you want to show us what you have?

Mr. O'Connor: Basically, we have covered the three areas the staff have covered, and we have suggested there may be two other areas of conflict in testimony, one of which may fold into or be part of the second one the staff dealt with; that is, the knowledge of the underwriting and so forth. As to whether there were discussions with Mr. Martin and Golden Tiger, we have separated that from the question of discussions about the flow-through shares. The fifth is the one we have just discussed with regard to the defunct companies and who said what.

There is one additional point in that regard that I think is important in terms of the conflict of evidence. I believe Mr. Fontaine's evidence was that the staff was actively encouraging him to use the defunct names. I think Mr. Markus's testimony was that as a matter of policy, they would never do that. Although he was speaking for head office and could not say what they were doing at the local level, he said that as a matter of policy, "We would not be encouraging people to use the names of companies that did not exist." In any event, this is rather rough because we have done it in a hurry.



Mr. Morin: Did you not produce at that time, Mr. O'Connor, a sort of graph indicating the number of cords?

Mr. O'Connor: Yes.

Mr. Morin: What was the response? We never heard from you about that. You asked for an inquiry on this. We never heard from you. Why?

Mr. O'Connor: I am sorry. We asked what?

Mr. Morin: You asked for an explanation from Mr. Markus from the Ministry of Natural Resources.

Mr. O'Connor: Yes.

Mr. Morin: They were supposed to do their homework and come back and give you the real reason why there were cords that were entitled. We never heard from you about that afterwards.

Mr. O'Connor: From me?

Mr. Morin: Yes.

Mr. O'Connor: I have not seen that document. I am just hearing from the chairman that it was not produced.

Mr. Morin: You insisted so much at that time on having that document and it was never shown.

Mr. O'Connor: I would love to see that document and go from there.

Mr. Chairman: Do you want to distribute whatever material you have and we will go over it?

Mr. Sterling: On that one thing, Mr. Therriault indicated the cordage was going to go up, particularly in the first stages of the FMA.

Mr. O'Connor: If the documentation clearly shows that graph is wrong, I will withdraw it and we will correct it.

Mr. Morin: You never got an answer.

Mr. O'Connor: We never got an answer? Did we? Have you seen an answer?

Mr. Morin: I do not know.

13:40

Mr. Chairman: We have an exhibit filed, 2-043. Am I reading that correctly?

Ms. Madisso: Yes.

Mr. Chairman: It was filed on August 26. On the second page of that exhibit is the explanation. To paraphrase, and you will probably want to go through it, I would summarize it by saying there were some minor errors in conversion; the actual volumes remained the same. You may disagree with that

interpretation of it, but I would read it to say that the tables are essentially not in error; they were misread somewhat. There was not a substantial overall increase in the volume that was approved.

If you are looking for it, it is 2-043, filed on August 26, 1986. It is the reply and the assessment of that graph done for us by the Ministry of Natural Resources, and it is signed by Mr. Markus.

Mr. O'Connor: That may bring to light another discrepancy in the testimony, in that I believe Mr. Fontaine--we should do research on this--indicated there would not be an increase in the cordage under the forest management agreement to United Sawmill, whereas those figures show there would be a doubling. Subject to what the staff says, if it is only a minor variance from that--

Mr. Chairman: You should read it for yourself, but my reading of it says there was not any great increase. There were some differences, but overall it would be roughly the same amount of cordage cut.

Mr. O'Connor: I thought you were saying that there was no difference and that our graph was basically correct but there were some small--

Mr. Chairman: I read this differently. That is why I have asked you to read it yourself.

Mr. O'Connor: Okay. I have not read it.

Mr. Chairman: Now would you like to lead us through this?

Mr. Morin: I have another question. We have discussed this already. It is in Hansard, page M-26, following item 2. I am asking this for my own clarification. I am not a lawyer. I suppose the three, four or five lawyers here can help me.

A question was asked by Mr. O'Connor: "Mr. Martin says in his conversations with you he urged you on several occasions to sell those shares." Was Mr. O'Connor referring at that time to an article that had appeared in the Sun, where that conversation was more or less transcribed and publicly known? Do you refer to that document?

Mr. O'Connor: Let us go back. Where are you?

Mr. Morin: Item 2, page M-26 in Hansard.

Mr. O'Connor: At the top: "Mr. Martin says in his conversations with you he urged you on several occasions to sell those shares. Is that not so?" Yes. At that time I was referring to the reported conversations of Mr. Martin.

Mr. Morin: You had not had a conversation with Mr. Martin personally by telephone?

Mr. O'Connor: No.

Mr. Morin: Just to clarify in my mind again, I was told at one point that I should not refer to documents or to publications that appeared outside this committee. Should that be used as testimony?

Mr. O'Connor: No.

Mr. Morin: I do not know; I am just asking.

Mr. O'Connor: No, it should not be. Quite clearly, my asking that question was not proper evidentiary procedure to be used in a courtroom, which more than supports the case I have been and will be making that this is not the proper forum to try Mr. Fontaine. He was unfairly dealt with by us, because we accepted hearsay evidence, we accepted opinion evidence and we put hypothetical questions and had them answered. We accepted documents that were unproved. We accepted a handwritten memo that was not even signed.

Mr. Martel: You are lawyers. You should have known better than that.

Mr. O'Connor: All to make the point that this should have been done in a judicial fashion and should still be done in a judicial fashion; that is, in an inquiry. I admit--

Mr. Morin: So it was badly done.

Mr. O'Connor: I said that quite some time ago.

Mr. Morin: You said that?

Mr. O'Connor: Yes.

Mr. Morin: That it was badly done? That we should not try Mr. Fontaine?

Mr. Villeneuve: A judicial inquiry.

Mr. Warner: Let us not be silly. Let us get on with it seriously.

Mr. Morin: No, please. It is just to clarify my mind. I just want to be sure.

Mr. O'Connor: Do you want him to be tried fairly? Agree with us on a judicial inquiry.

Mr. Morin: Let me repeat what I said. I am sure this is the right forum. I am allowed to ask questions.

Mr. Martel: You should have known better.

Mr. Chairman: Hold on. Come on.

Mr. Warner: We do not have time for this nonsense.

Mr. Chairman: Let me try to get you back on track.

Mr. Morin: I am just asking a question.

Mr. Chairman: You may wish to proceed with this kind of argument; there is very little I can do about it. Let me simply say that at the beginning of the process we tried to explain that this process is not like a court in the traditional sense of court procedures and the formal use of production of evidence. Far more latitude is granted in a parliamentary inquiry than you would ever get in a court inquiry. The choice of putting it



before a parliamentary committee has some warts with it. The warts are that the members of a parliament have considerably more freedom than a lawyer acting in a court.

Mr. Martel: And they are biased.

Mr. Chairman: For starters, there is probably not one person on this committee who would be allowed to sit on the jury in a court. There is probably not one member of this committee who would be seen to be a fair, neutral participant in a court process. You would all be disqualified. When you have accepted a parliamentary committee to do the investigation, you cannot set aside the fact that all these things exist. What you get is a trial by the member's peers; you get a process that is less than perfect.

For example, when documents were introduced, I tried to flag them as they came in as being matters that were not really clear evidence. But I cannot prevent members from tabling graphs, however accurate or inaccurate the graphs might be. I cannot stop members from introducing, by means of a question or a speech, whatever they want to say. The members are free to do that.

Obviously, you are going to enter into some kind of an argument that another process should be used. I remind you that by motion of the assembly, this is the process that was chosen. It is our job to carry out the process as best we can. It is our job to make recommendations.

Going into the process, people were aware that review of this matter by a parliamentary committee would be substantially different in nature, in form and in what would be considered as evidence and how the evidence would be considered from what it would be in another forum. That choice was not ours to make; it was made by the assembly.

If you want, you are free to argue at great length about whether this is a good or bad process. That has been going on for a few centuries, and I do not imagine it will end here. However, you have to accept that a parliamentary inquiry by a committee of a parliament is a recognized process. It has been used. For all its faults, it is fair. It has good points and bad points.

There are those who would argue that in the finest court of law, with the finest lawyers and the best judge in the world, there is unfairness. There is unfairness in who can hire the best lawyer, who can hire the best private investigator and who can gather the largest amount of evidence. In any court you choose, there are levels of fairness and unfairness. There are just differing degrees.

We are stuck with the traditional parliamentary committee investigative process. We have sought counsel. We have sought research. We have attempted to provide an occasion for members to hear testimony and gather the type of evidence they wish. There are very few limits on what you can consider, and I cannot prevent any member from asking questions. I can beg for fairness and I can do a few things around the edges. The truth is that the members on the committee are free to ask whatever questions and make whatever allegations they think are appropriate. Then we will have a discussion on them, and ultimately we will vote on them. That is the way it is, folks.

Mr. O'Connor, would you like to lead us through the information you have?

Mr. O'Connor: The five areas we have identified are the three

identified by Merike and John. We photostated the excerpts from Hansard that they have; there are perhaps slight differences.

13:50

The first one, as I indicated, is the advice to Mr. Fontaine to sell Golden Tiger shares. The second one is the discussion of Golden Tiger shares, a rather general category. It is only one page. The third one is the knowledge of the underwriting, which we have discussed. The fourth is the use of defunct companies and the fifth, the role of Mr. Gagné. I am sorry. I guess we are up to six. The fifth one is the discussion of United Sawmill in Hearst, which is number 3 in the staff's report. The sixth one is the role Mr. Gagné played in the whole process.

Again, all we have done is photostat material from Hansard to show that there were discrepancies in the statements of Mr. Fontaine as opposed to other people. We have attempted, as the staff did, to keep it restricted to discrepancies between Mr. Fontaine and others and not between others and others, which I have suggested is largely irrelevant to our hearings.

Mr. Chairman: Is it reasonable to assume, Mr. O'Connor, that you are generally in agreement with the staff identification of the three major conflicts?

Mr. O'Connor: Yes.

Mr. Chairman: Is there general agreement in the committee that those are the three areas that ought to be investigated further?

Mr. Warner: Those are the major ones.

Mr. Chairman: That the selling of the shares in Golden Tiger or putting them into a blind trust, the question of whether he did have what I would paraphrase as being "insider knowledge" and the considerations around the forest management agreement are the three major areas we ought to investigate further. Do I have consensus on that? Whether you think anything wrong happened or not, do you agree that those are three areas where we ought to focus our attention?

Mr. O'Connor: At least, yes.

Mr. Chairman: Okay. I see general acknowledgement. Those three areas are included. Maybe you could assist us by making your arguments on whether we should add other areas.

Mr. O'Connor: Number 2, as I have identified, is the discussions on Golden Tiger; generally whether discussions took place with Mr. Martin or not. Mr. Fontaine says, "Mr. Martin has been reported in the press as having said that he and I frequently discussed business matters, specifically Golden Tiger, while I was Minister of Northern Development and Mines. I categorically deny that allegation."

Martin, on the other hand, when he was before us, said there were discussions, as we have discussed, and the Hansard transcripts are there, particularly the second part on September 12:



"Mr. O'Connor: How many times did you discuss with him this problem about when he would sell and how much he would get for his shares?

"Mr. Martin: Once or twice.

"Mr. O'Connor: Over the fall?

"Mr. Martin: Yes; probably around the underwriting time."

The underwriting was November 10.

"Mr. O'Connor: How many times would you have discussed with him this problem about when and how much you would get for the shares?

"Mr. Martin: Once or twice.

"Mr. O'Connor: Over the fall?

"Mr. Martin: Yes; probably around the underwriting time."

That was repeated.

The general discussions are a second category, although I guess it can be argued that they are basically part of the ongoing discussions with Martin, as set out in item 2 of the staff's and item 3 of my brief.

Mr. Chairman: Would it probably be better to take these one by one and try to deal with them?

The basic allegation, as I would put it to you, would be that a minister of the crown discussed--on a regular or irregular basis, but at any rate discussed--a matter of government policy with someone in the private sector and that he might have benefited by that or the behaviour was improper.

Mr. O'Connor: No, no. All we are doing at this point is trying to identify areas where there is discrepancy in evidence. We are not trying to get into whether it was proper for him to have discussed government policy with an outsider. We are just saying--at least I am just saying--that here is an item on which one witness says, "Yes, we had discussions," and Mr. Fontaine says, "We did not have discussions."

Mr. Chairman: I see.

Mr. O'Connor: That is an identified area of discrepancy in testimony without characterizing it as good or bad or wrong or right. It is just an area where he disagrees with another witness.

Mr. Chairman: What is your next one?

Mr. O'Connor: Item 3 is the underwriting; item 4, the use of the--

Interjection.

Mr. Warner: What was the next one?

Mr. O'Connor: I am sorry. Item 3, as you can see, is on the next page. We have entitled it Knowledge of Flow-Through Shares. It is comparable to item 2, as identified by Ms. Madisso and Mr. Eichmanis.



Mr. Martel: Okay.

Mr. O'Connor: I will not discuss that.

Mr. Chairman: I think we are agreed that is something that has to be explored.

Mr. O'Connor: Item 4 is the use of defunct company names. We have identified a discrepancy in evidence between Mr. Fontaine, who said the staff were encouraging him to use these names, and Mr. Marcus, who said that was not their procedure. We had a bit of discussion on whether that is an item of discrepancy.

Mr. Martel: That one worries me. As you will recall, going away back, those names were used when Mr. Pope was minister. Even after they became defunct or dead as companies, the process continued. To lay it on Fontaine three years after the fact seems to me not to be kosher, if I can use that term.

Mr. O'Connor: I agree.

Mr. Martel: I ask that we not consider it.

Mr. O'Connor: Again, we are losing track of what we are doing here. Whether or not it is right for him to have used the names is irrelevant. All we are trying to identify is where there is discrepancy in evidence. Mr. Fontaine says the staff told him to do it and Mr. Markus says no; so there is a difference in the evidence of two witnesses.

Mr. Chairman: I agree. You have a part of a Hansard here where Mr. Markus went through this process, and there is an admission by Mr. Markus that they did not pay much attention to this. He says: "The checking of the licensee's name and legality, existence in law, began early this year, January 1986, and we have done it for every new licence as it passed our licensing process. We did not go back and check the records of the existing licences. That is when checking with the companies branch began on a new licence issue basis."

There is a discrepancy between the testimonies. In my reading of it, though, there is an admission on the part of the ministry too that it did not pay much attention to this stuff. It does not seem unreasonable to me that field officers for the ministry also would not have paid a great deal of attention to it.

I also have a little difficulty getting from that point to what is central to this committee's deliberations. I agree there is a discrepancy.

Mr. O'Connor: Yes. The issue itself is irrelevant.

Mr. Chairman: Yes.

Mr. O'Connor: I agree with everybody on that, but the point is that in the course of our deliberations, we are trying to determine the veracity of Mr. Fontaine, whether or not he is telling us the straight goods when he comes here. Then the question of the number of discrepancies that exists becomes important. If there are three, perhaps he could have made a mistake on three occasions. If there are five, seven or 10--which there are not, but if there

were--then one would begin to wonder whether the whole world is out of step with René or whether he is out of step with the rest of it. It is from that point of view entirely.

Mr. Chairman: I get your point.

Mr. Martel: I get your point too. What worries me is that even the ministry does not seem to know what the hell the facts are. If there is one that makes it difficult to ascertain who knows what is going on, in that one there is some justification for someone being mixed up, I would think, but I do not want to mix up the ones that really bothered me with the ones where there is reason for being confused.

Mr. O'Connor: I am not--

Mr. Martel: I understand what you are saying.

Mr. O'Connor: It is not a strong point, but it is one area of discrepancy. If the feeling of the committee is to eliminate it, I do not care.

Ms. Hart: To bolster Mr. Martel's point, in Hansard, Tuesday, August 19, page M-22, Mr. Markus was asked by Mr. Warner about the cause of the name discrepancy. The question was, "You did not have any suspicions?" Mr. Markus said: "I do not say it is common, but it has happened before. There are lawyers who handle clients in the woods industry who do not inform us of name changes." It is pretty clear there was confusion even in the ministry.

Mr. Chairman: I sense a consensus here that, except in a very peripheral way, this is not a matter we want to pursue a lot.

14:00

Mr. Sterling: It is the last one, that we recognize the role of Mr. Gagné in the whole affair.

Mr. Chairman: That is one that staff had identified as well. It was down on the list. I guess it is up to you whether you want to pursue these points. It seems there was a difference of opinion. There were some slight discrepancies as to who had been informed and who was responsible. In my judgement, the deciding factor would be, is that central to what the committee is trying to determine? I am not sure it is. I would be willing to listen to arguments about it, but it seems to me it is off the mark.

Mr. Martel: What worries me is I cannot separate when René is being a loose cannon on deck--careless with the way he talks, which is his style--from when René is simply saying, "That is the way it is." That is part of my difficulty.

He says: "I should have had a better accountant. I should have had a better lawyer. I should have looked after my things better." It starts to worry me because we have to make decisions on that sort of Lucy-Goosey presentation. It does not help any of us to come to grips with the problem of whether we are being dealt with honestly--I am trying to be very careful--or not. That is just an example.

He indicates: "It is the fault of someone up there. It is not mine." That is what really worries me. Did someone really know and did it deliberately? I am not suggesting that is the case; I am simply saying that is the dilemma.



Mr. Chairman: In the end, it does not matter. If the press release goes out with your name on it, you are responsible for what is said in that release, whether you ever saw it or whether you approved of what was said. If it goes out from here under your name, if you are the minister, whether you actually sign the elevator licence or not, you are responsible for it in the parliamentary tradition. We know that is a little impractical, but it is true. The defence, "My accountant did not file the papers" is no defence for a minister of the crown. It is the member's responsibility to put it in. Whether a staff member did not do it, whether someone's competence is at question is beside the point. The obligation to see it is done rests with the member.

Mr. Sterling: This one is more important in that a very strong part of Mr. Fontaine's defence relates to the inability of professionals to carry through with his wishes. When he talked about what Mr. Gagné was charged with, there are differences as to what Mr. Gagné understood he was charged with in the whole affair and what Mr. Fontaine did. Therefore, the conflict is of some relevance.

Mr. Chairman: I agree it is of some relevance, but the overriding point for me is that in a parliamentary system the obligation can never be put off to someone else. To say, "My secretary did not do it," is no defence.

Mr. Sterling: I am not arguing your side, but that is the defence he has introduced.

Mr. Chairman: I am saying that is not a defence in a parliamentary system. You cannot say, "My assistant forgot to file the documents; somebody else did not do his job." In a parliamentary system, the minister is responsible for everything that goes out in his name. It may be an unfortunate tradition, but it is the tradition.

Mr. Warner: I agree. If you boil this down, Mr. Fontaine says Mr. Gagné is not particularly efficient or effective. Mr. Gagné says, "I am." When Mr. Fontaine reappears and we ask him the same question, we will probably get the same answer. I do not know where that leads us. To a certain extent, whether Mr. Gagne is competent or incompetent has very little bearing on the conflict of interest. The person who has the responsibility is René.

Mr. Sterling: Okay, but there is a discrepancy here. We are dealing with a discrepancy in evidence. Mr. Fontaine said Mr. Gagne told him: "I am going to help you. I am going to take care of that." When Mr. Gagne was asked that specific question, he said "No."

Mr. Warner: Right. We have heard that evidence. You are putting this forward as something to be further explored. What I am suggesting--

Mr. Sterling: No, no. I am just saying this is a conflict.

Mr. Chairman: Yes.

Mr. Warner: Is it a conflict in testimony or it is a difference of opinion? We have that before us. Members of the committee have to weigh it as to how much weight they put on it: whether it is a conflict in terms of the veracity of the statements made or whether it is more a point of view as to whether someone is competent or not in how he did his job. We will each have our own particular view of that.



Mr. Chairman: I see the argument you are making and there is validity to it. It is just that at this point it is not central. I understand what you are trying to do. All right. Perhaps we might just as well put it on the table. We are going to have to explore this at some point. The argument that is flowing here in kind of an indirect way is that there are a number of discrepancies--and maybe this should be the fourth major area that is pursued. In other words, Mr. Fontaine said one thing and Mr. Cagne said another.

The timber licence thing may be irrelevant, but he said one thing and Mr. Marcus said something slightly different. What is being mounted here is kind of a challenge to the veracity of the witness. It may not have been on major points, but there were a number of discrepancies on the way through.

That is kind of an overriding theme. In most arguments in any kind of a court, you always get down to a point where you must decide eventually, where there are conflicts in testimony, one person is telling you something you are going to believe and the other person is telling you something you will not believe. That is kind of the overriding theme of what is going on here.

Mr. Sterling: If we wanted to go back to the other conflict, which we agreed was of a minor nature, the answer in my view, quite frankly, is that I do not think Mr. Fontaine knew one way or the other about the issue. I do not know whether he did or he did not, but I suspect he probably did not even know they were applying in the defunct company names or whatever.

But he replied and he made an answer, saying, "The Ministry of Natural Resources wanted us to it that way." I am not sure they did. We have evidence to the contrary. That is the problem.

Mr. Chairman: Okay. To pursue it from here, I suggest there are three major conflicts the committee has said it wants to pursue. There are a number of peripheral items and there is kind of one overriding theme that perhaps we will hear again.

To identify them again, the matters surrounding Golden Tiger occupy two major themes. One is when he got instructions to sell or to put into a blind trust and how he arrived at that information. The second is, did he utilize some kind of insider knowledge or have knowledge that the shares would go up if he just held on to them for a while. The third major area is the forest management agreement and his participation in that. I guess if there is a fourth and an overriding theme, it comes down to whether you believe or do not believe the testimony that was provided by Mr. Fontaine. That would be the central theme we would ask him to respond to when he appears tomorrow.

Mr. Warner: There are a number of items, as Norm has mentioned. That is what you are getting at. Right?

Mr. Chairman: Yes.

14:10

Mr. Warner: All right. Put in that context, it makes more sense to me. I misunderstood at the beginning. I thought you were picking off separate items and attempting to explore each of those separate items to some kind of conclusion. What makes more sense is to take some of the items that are not quite as major as the forest management agreement, for example, and tie them to a general theme, which is the veracity of the statement of the witness himself. That makes a lot more sense and is a worthwhile exercise.

Mr. Chairman: Are there any other matters that you as a group want to pursue? You have now set a general direction that is reasonable, but if there are other things, get them out on the table now.

Mr. Sterling: I suggest the conflicts in testimony are important, but there are other matters we would like to discuss in the report as well.

Mr. Chairman: All right. Let us hear it.

Mr. Sterling: There is the whole area of the conflict-of-interest guidelines--the sloppiness of this government in dealing with the conflict-of-interest guidelines--and the area of what is a blind trust. How much instruction took place in making ministers understand what the blind trust meant? How much instruction took place in terms of informing the trust agents of what the duties were in dealing with the blind trust? Is the blind trust a sham or not? In the framework of what happened to Mr. Fontaine, we have to discuss the whole area of the guidelines and the tools that were set up during that time.

Mr. Chairman: I have no problem with noting that in passing. I am mindful that on a previous occasion we did decide as a group that we were not going to rewrite the guidelines and that we were not going to do the litany of all this. That is on our agenda and we will do it when the Aird report is tabled. When we receive that, we will go through it in a very thorough way, if you are content with making those kind of observations in the report.

One other thing which struck me as glaring on the way through, particularly when Mr. Fontaine was here, was how realistic is it to take a brand-new member of the assembly and make him technically responsible for all of these things when in fact we have no formal mechanism for doing that? Obviously, some attempts were made to inform a minister of the crown of certain obligations, but it is unfamiliar territory, something that people do not do in the normal world.

If you stop and think of all the ramifications that apply to you personally as a member, all the obligations that you assumed when you became a member, who told you about these things? Frankly, we now have orientation periods for members to try to explain some of it, but we make no big deal of it and attending those sessions is optional. Perhaps that should be one of the things we note as well: that a whole lot of obligations, of which he or she is not aware, are laid on a person when he or she becomes a member of the assembly. We better pay some more attention to that, in particular to ministers of the crown.

Mr. Sterling: What I think should be pointed out in this specific case is that if we had taken the Davis guidelines, there would have been no question: René Fontaine would never have been appointed to the cabinet. That is a fact. The way it was got around was that the guidelines were changed in September 1985. That is a fact. A blind trust was set up. That is a fact. The trustee to that agent paid little attention to the fact or failed to understand that as part of that trust company he was talking about business with Mr. Fontaine. That is a fact. All those things are facts and they have to be brought out in terms of showing the frailty of that series of events.

Mr. Warner: Let us be a little cautious, though, in terms of how this is expressed. It seems fairly clear to me that the guidelines were broken. I know the guidelines were changed. I do not know, and we have no proof to indicate--



Mr. Sterling: No, we do not. I did not say that.

Mr. Warner: --whether the guidelines were changed in order to accommodate folks who had broken the guidelines. I suggest what might be more appropriate is to raise, by way of questions in the report, the matters you have mentioned with respect to conflict of interest and blind trust and separate that from the involvement or lack of involvement of the Premier's office in this whole matter. I believe they are two different issues.

The question of the conflict-of-interest guidelines and how they should be drafted and what concerns they should address is one question. Inside of that is the notion of a blind trust as opposed to disposing of your assets or some other mechanism.

What is separate, however, and I believe is part of this whole inquiry, is the role of the Premier's office. From everything that has been presented to us, it seems to me that not only were the guidelines broken, but also no one was enforcing them. The Premier's office did not seem to have any particular active involvement in ensuring that the guidelines were adhered to. Whether the guidelines were good, bad or indifferent in one respect is irrelevant if whatever you have in place is not enforced. To me that is certainly worthy of comment within our scope of the inquiry.

The chairman's point is well taken. To get into the arguments or debates about the guidelines will come later, after we have the Aird report. That will be a definitive thing I hope we do out of this committee. I do not know. Those are my thoughts. We should raise some of these things as questions and certainly talk about the role of the Premier's office in all of this.

Mr. Martel: Could I add to that? It is a thing that bothers me a lot. I agree with what David said. If Fontaine had been given some assistance by those people who were responsible--I am not talking about outside help; I am talking about people internally. As a new member, it takes you a year to learn to find your way to the washroom around here and you ask someone to take on responsibilities and everything else--

Interjection.

Mr. Martel: Some longer even. Do you know what bothers me? When this matter started to be raised in the Legislature--and I asked the Premier when he was here--he responded that Fontaine was squeaky clean. What bothers me is that somebody in the Premier's office supposedly went back, reviewed all the material and said to the Premier, "Mr. Premier, there is nothing wrong." That is what he came back to the House and told us. Somebody misinformed him. I am not saying "misled"--misinformed him. Anybody who would have picked up the phone and asked the Ministry of Natural Resources, "Anything wrong over there?" would have seen Kerrio's statements. He looked at the document nine days before Mr. Fontaine's statement in the Legislature. He met with MNR, likely at the request of MNR. Nine days before, he met with them. Three times subsequent to that, he meets with them.

Somebody says to the Premier, "Mr. Premier, everything is okay." The Premier gets up in the House--

Mr. Warner: Everything was not okay.

Mr. Martel: --and says, "The man is squeaky clean." I am sure he did it in good faith. I do not think he would get up there and lie to us. But



somebody who was supposed to investigate--and it ties in to what the Premier said, which was that there may have been a lack of efficiency in whoever was responsible for ensuring that the guidelines were adhered to. How could they set the Premier up to make such a statement? That is one thing that bothers me.

As we write the report, we can keep in mind that there are really some junk shares. I hope, when we start to make the difference, we really take into consideration that a lot of that was just junk--200 shares worth a cent a share; just junky stuff that is totally irrelevant. I hope we will try to distinguish. There is the technicality; I understand that either, yes, you declare it or, no, you do not declare it. However, some of it--

Mr. Sterling: I agree that all those junk shares simply show an attitude on the part of Mr. Fontaine, that he never learned his lesson as he went along the road.

14:20

Mr. Martel: But I am not sure that even some of it--I do not have a share in anything but I know there is another minister of the--

Mr. Sterling: Do you not have a share in a chandelier in--

Mr. Martel: In a chandelier. I have a--

Interjections.

Mr. Sterling: You have about three quarters of that.

Mr. Martel: I know a minister who just found out that he was given one share of a company 20 years ago and dug it out. It came to light. There was one share. Somebody gave it to him when he was a young lad. He dug it out. Some of that stuff you would want to forget; you would not want to remember you had it. We have to make that sort of distinction. There has to be a little relevance. I hope we keep that in mind.

Mr. Chairman: Let me try on for size something else that has been bothering me a bit and see whether the committee is concerned about it too. It occurred to me as I reviewed the material last night that a lot of people who are named here were given very responsible tasks in this process of preparing documents, preparing a blind trust, filing papers and all that, who have no relationship to the assembly at all. They are private citizens, lawyers, accountants or whatever. It occurred to me after looking at some of that material to ask, is it realistic to take an accountant from Kapuskasing and plug the accountant into this kind of process, or take a lawyer from Hearst and have him responsible for filing documents that might be subject to an inquiry of this nature afterwards? Is it fair to take a lawyer from outside who might never have dealt with government and say, "We want you to advise new ministers coming in on how to do this"?

The other thing that occurred to me was that we do not have amongst our staff here, except in the Attorney General's office, a great many people who have any experience in this. If the process did not work properly, it seems to me it is kind of wrong afterwards to hold some kind of accountability process up to people who have no relationship to the assembly or the government of Ontario, with no ongoing familiarity with the process and no direct-line accounting. It is unfair to say to those people, "Prepare these documents and hand them in to somebody."

Mr. O'Connor: May I can say something on that? I agree with you, Mr. Chairman, that holding them responsible specifically is perhaps an unfair situation. However, somebody was responsible and we have to hold responsible those who appointed them or asked them to do the process and did not follow up adequately or did not supervise it or did not give the right instructions. That seems to me to get back to the Office of the Premier and those on the transition team who were responsible for setting up a process and seeing it through to its adequate completion.

To comment on Mr. Martel's remarks about the junk shares, sure they are junk shares and in themselves they do not mean a lot to us, but it should be pointed out--this again gets back to the process--that with some digging he came up with the junk shares. Why was that digging not done initially? Why was the process set up by the Premier's office not sufficient to find those junk shares right up front? Obviously, they were not impossible to find because he subsequently did. He told us about them and he may tell us about more tomorrow; who knows? It seems there is a real falling down in the whole process in the thing.

May I say one more thing with regard to the general subjects we should be discussing in our final report? It is something we discussed yesterday: the Legislative Assembly Act. We have an opinion that there was not a breach of that act by Mr. Fontaine in what he did. We may have a second opinion that there was a breach. We have to deal with that area and draw some conclusions on our own that, yes, there was a breach or, yes, he should have done things differently, particularly with regard to the four meetings with Mr. Therriault. We should look at them and see whether they violate any sections of the act and that should also be part of our report.

Mr. Chairman: In passing, a number of us have said throughout the hearings, "I would not have any problem with this because I do not own any shares." I was one of them and I was wrong. I happened to have forgotten about it, but I do own shares in a food co-op and I have a directorship on a number of agencies in my riding. Therefore, the initial assumption many of us made that if we were the ones who had to disclose what boards of directors we were on--I probably have a fairly lengthy list of those, in some of which I have not been to a meeting in years, but I am named as a director of some agency somewhere.

The only one I could think of was the food co-op, where we actually all got together and bought shares in it, but I am sure there are other activities I did, and I do not have pieces of paper that say I own those shares, either. I am sure somewhere in my house there may be some documents of that kind, but there are also a lot of others for which I never got the shares because they were kind of amateur night projects and they did not operate as a business. I am kind of changing my mind about all of this stuff.

Mr. Villeneuve: Something quite ironic after Mr. Therriault was here was that under questioning he admitted that if indeed Mr. Fontaine had not been elected to the Legislature of Ontario, the forest management agreement would likely have been signed, cut and dried, and finished. What was somewhat ironic was that people kept going to Mr. Fontaine to solve the problem when he was the problem. The web kept getting deeper, the solution kept getting further and further away and somehow or other there was absolutely no direction from anyone. This is the sad thing about it, and I have to feel sorry for René Fontaine.

Mr. Chairman: Yes. The conflict I picked up in this is that when we



say a minister cannot do certain things, the minister also being a member representing a riding, we have created a little bit of unfairness there. People in my riding have a right to come to me to solve problems and they will come no matter what I might say to them. They now have some acceptance of the fact that I am not supposed to go and argue with judges about whether their kid should get busted or not; there is enough knowledge out there. But on almost every other problem under the sun, they do not want to hear that this is not my jurisdiction, that I should not meddle in it. They have a problem and they expect me, as someone who represents them, to help them resolve that problem.

Mr. Villeneuve: Part of that problem, I am sure, came from the man's election platform, when he said, "We will get an FMA."

Mr. Chairman: Yes.

Mr. Martel: May I interject? I think the problem came from the Ministry of Natural Resources, quite frankly. I want you to think back clearly to what was happening. The thing was going along quite nicely. Maybe I am misreading this scenario, but let me just run it by you.

MNR wanted Levesque in and it was not about to sign an agreement with Hearst unless all three were in. Do you remember Cloutier saying: "If we did not all get in, we would not get a forest management agreement. We understood that in the business"? I think the conflict arose that United Sawmill--and who owned the other company? Not Levesque.

Mr. Sterling: Lecours.

Mr. Martel: Lecours. They had already spent \$100,000, they say, to get it going. Levesque is opted out of the process and then MNR wants him in. He wants his own at one stage and MNR is saying: "No. You are in, buddy." But the other two companies are saying: "Oh, no. You are staying out for five years." All those meetings that surrounded René Fontaine and Therriault were because MNR wanted Fontaine and company to back off the five years they wanted. I think that is why Mr. Fontaine was so ticked off and felt so bad, according to Therriault's statement, the day he went to see them, because it is at that stage, if I read it correctly, that Mr. Fontaine agreed to two years. That is why he had Viel with him, I would think. It is a major item in the FMA. MNR had somehow to get those three companies to agree, and one of the ways it was going to do it--

I cannot understand MNR. I have been at lots of meetings with MNR people to discuss my riding, but they did not come to Toronto to meet with me. My colleagues and I from the area met with them and they did not have a meeting set up two hours later with the deputy to report to him what Martel thought.

Mr. Sterling: That is interesting.

14:30

Mr. Martel: Hardly at all. Absolutely none.

You see, they had to get Fontaine in. The whole negotiation was over a major item in the FMA. Make no mistake about it. They had either two years or five years in the FMA and the Ministry of Natural Resources was not going for five. People had to change, not the nitty-gritty of the FMA itself, but the whole term on which it was going to work. If they did not change from five



years to two years, they were not going to get an FMA. That whole area has to be looked at.

I agree with you. How does the member from the area who is getting ticked off that it is not getting resolved proceed? It comes back to the fact that it might have helped matters if somebody had been appointed to look after it, if another minister of the crown had been told: "You have to deal with the FMA; even though it was not René's responsibility, you are responsible for getting the thing resolved."

Ms. Hart: My question is not on that point, but there is one point I want to make. When we were talking about the shares, it occurred to me in going through it, having been involved in a lot of corporate litigation, that more often than not the registrations do not happen immediately. I raise that in case others are not aware of it. I was not surprised at all when I read that the registrations did not happen in time, but others may not have been aware of it. It is not good practice; I am not condoning it, but it happens all the time.

Mr. Chairman: We now have the second draft.

Mr. Sterling: When we started on item 1 of the conflicts, I started to say that I was not satisfied this outlined the conflict in enough detail. Merike indicated she took her function to be to try to take the more salient points and say, "This is the conflict." For instance, in the section dealing with when he was advised to sell the Golden Tiger shares, it is important to have on the record how many times Mr. Fontaine said no to the question posed in different manners. He was quite firm. He was very firm in saying no.

As you can see when you go back to the first page of our document, I asked Mr. Fontaine, "Did they not advise you in June?" He said, "Go back and read the statement." I continued: "In June, you revealed to Mary Eberts that you had shares in Golden Tiger and you were then appointed as Minister of Northern Affairs and Mines. She did not advise you to sell the shares at that time?" He said: "No. My statement says...." Then I went on to ask about the advice Ms. Eberts had given in the Elinor Caplan inquiry, and I added, "She just did not advise you of that?" He just said no again. That becomes important if you try to fudge the words in her letter of July 9 about that not being advice to sell.

If you ask somebody a certain number of times, you expect him to say whether he was being forthright at the time. "There was some mention of me selling the shares, but I thought I had until the end of the year to do so." I think it is important to indicate how many times he said no to those questions related to the selling.

Mr. Chairman: That is legitimate. Let me outline for you how we might proceed on this point. The staff was asked to identify the areas in which there are apparent contradictions in testimony. It seems to me they have done so in writing and verbally and have given the committee parameters; if you like, they have identified areas where there are conflicts. We have also given members of the committee an opportunity to identify any other areas. You have done so.

We are getting near the point where it is the committee's job to determine exactly what is worth pursuing and what is not and in what manner. I would say that after we have heard Mr. Fontaine's reply, it would be reasonable to begin with Mr. Warner's motion. That is something that is on the

table and we could give notice of that. If you want to amend that motion to do what you just said, to identify that on 65 occasions he was asked this question and he said no or yes to something, then it is in order.

I want to keep the staff out of the area of judging what was his most grievous sin--that surely is not their job--or whether he sinned immensely or just a little bit, and mortal or venial. That is your job.

Interjection.

Mr. Chairman: That is right; it is the Jansenist influence coming through.

At some point in time the staff will remove themselves from the process completely, and it will become solely your process and it will be your responsibility to move motions and to have arguments. Ultimately, we will take votes on these matters, and that is the only way the committee can decide these things.

I think the staff has identified the areas of conflict, and I have not heard, frankly, any new areas of conflict being proposed. There is always the overriding argument of whom do you believe.

Now, when we have reached the point where there is an actual motion in front of us that is amendable--and you can put all these other amendments forward, if you want--then we will have the arguments that he did not just make one mistake but 25 mistakes, that he did not give us just one wrong answer but a whole bunch of wrong answers. That is the way we will proceed.

I appreciate your point, but at some point we have to delineate what is the responsibility of the staff and what is that of the members, and that is where I would draw the line. All right.

Mr. Sterling: It is a little difficult when you are having these--I mean, I understood that the staff was going to be able to prepare a report on our direction.

Mr. Chairman: Yes.

Mr. Sterling: Let us give them directions. Have we decided what we want to do?

Mr. Chairman: I am saying direction from this point on means to put a motion, have a debate and have a vote. Direction at this point in the game does not mean one member of the committee says, "I think you ought to...." It means, if you want something done, put a motion, have the debate and have the vote.

Mr. Sterling: We will be prepared to do that after Mr. Fontaine.

Mr. Warner: I think part of it is an approach. I do not know whether this is agreeable to others on the committee, but the way I saw us proceeding was, based on the evidence we heard and the testimony, to draft a motion and try to keep it simple and straightforward. The conclusions are straightforward and simple, not a lot of gobbledegook. That is what I attempted to do in the motion I drafted; it is two pages.

Appended to that would be a report containing, for example, the draft



report; we went over that yesterday, and we now have a second run at it. I would include factual material, plus what I think is possible, when we have apparent contradictions, to include those, as we go through this after Mr. Fontaine has been in here. You could take those major areas of contradiction and tidy them up in terms of details and make those part of our report.

In other words, what this section does is to substantiate my contention, if you agree to substantiate it, that Mr. Fontaine violated the Premier's conflict-of-interest guidelines.

It is a simple, straightforward statement, and part of the proof of that is not only the factual material that was provided but also a section on contradictions. In that section, there is nothing wrong with including excerpts from Hansard--I think it is a normal practice around here--as has been done for us. Then, as part of the report as well, there could be some comment on the Legislative Assembly Act, the conflict-of-interest guidelines and a list of witnesses. That is how I saw it in my mind to try to keep it straight and simple.

14:40

I have no problem with indicating in the section on contradictions, for example, that Mr. Fontaine was asked on a number of occasions--however you want to put it--that he said one thing and we found something else. That is fine. There is no problem. You can substantiate it through testimony and include that in the section. What I did not want to do was to clutter up a motion. I think the message out of here should be simple, straightforward and, quite candidly, unanimous.

Mr. Sterling: I do not disagree with you at all. I am just saying that in terms of these items, particularly the one on the FMA, we have the statements of Mr. Fontaine in the House and in front of this committee, and then we have two short paragraphs about where there appear to be contradictions. One point is the four meetings. Particularly about the one meeting, I think it is very important to point out that the manager of United Sawmill was with him.

Do we gather all that and try to put it in the form of a motion, or do we make some direction on it here? It is important to know that on August 27, 1985, Mr. Fontaine went to a meeting with Levesque, Lecours and whoever in the Ministry of Natural Resources boardroom, where they were discussing the FMA, when he exited and when he did not exit, that on September 5 he wrote somebody about the FMA, that he wrote on September 24 about the FMA, and that on November 5 he met with somebody about Indian bands, dealing with the FMA. All those things are important in terms of the conflict.

Mr. Warner: Mr. Sterling raises an important point. Contrary to what Mr. Fontaine told us, those dates were dates of meetings at which the business was discussed. It was not just anybody who was present; the general manager of the company he owned was present. That is important to have in there, I agree. I do not know what process you want to use for amending materials.

Before we go on any further, I want to say the staff did a super job in a very short time of putting together the kind of material we need. As far as I can determine, they drew out the essence of what the contradiction is all about. They drew that out overnight. They did a great job. It would not have been proper for them to have amended or included the information you have mentioned. That is our job.



Personally, I would like to see in that section on the meetings something about who was in attendance, because that is germane to the whole issue of whether business was discussed.

Mr. Chairman: Let me assist a bit here. We are not going to hurry to report motion after motion, but the staff needs direction on what conclusions you have drawn. If you give them direction at that time and put motions in front of the committee and it is clear what the committee wants done, then the staff can operate. However, please do not ask them to gather up your political arguments for you and write it in the way you want it; that is unfair. I do not want them to do that, and I will do everything I can to protect them from getting caught in that.

I am trying to red flag for you that we are getting near the time when the staff cannot do anything more for you. I think it is only fair that you now give Mr. Fontaine the opportunity to reply to these things. If you conclude at the beginning of our deliberations and tell the staff that you think those meetings were important and you want them documented, if you put a motion that says that to the committee and it carries here, there is no problem with having the staff document when the people met, who was there, how many times, where meetings were held and all that. But until such time as the committee gives a clear indication of what it wants of that nature in the report, the staff cannot do that kind of stuff for the committee.

It might be useful to go through this second draft. There are a couple of things that are not quite ready yet. We were unable to get all the exact dates for the timber licences, but that will just be a matter of time and it is not a problem, or to determine exact values of the shares, but again we do not anticipate a problem, just a matter of time.

Mr. Sterling: Before you do that, I think it is also important to have a listing at the end of all the conflicts of interest we find as a result of the evidence that has been placed before us, technical, nontechnical or whatever. If committee members want to decide which ones are of significance to them, that is fine and dandy. Mr. Brandt has alleged eight here; if five of those are right or wrong in our judgement, then we should say so. If there are 10 more, they should be down as well.

The reason I say that is, in terms of the future attitude of ministers to their affairs, they will know that they have to look in the closet to find those old shares or that some day somebody may--

Mr. Chairman: That is fair. That is not out of line either with what I am suggesting as an appropriate way to proceed. In a sense, Mr. Warner with his motion has attempted to say, "I think there is a conflict here, here and here." Others will see other conflicts and may want to add them. At the end of that, when some motion finally carries, that override will come in where the committee will say, "There were some major conflicts here and some minor, rather insignificant ones there." If you add them all up, it may have an overwhelming effect.

You may decide the other way, that there is nothing of any consequence here; there might have been some technical violations, there might have been some filing dates that were missed, but they are not of real consequence. In a sense, you are saying, "On these counts we find him guilty" or "not guilty," and I anticipate that at the end of that process another motion would be put which would determine a general assessment. That is about the only way we can proceed.

In regard to the areas in the second draft that have not been done, we do not have the exact dates of the timber licences, but we will get those, or the value of the shares. Nor have we gone through the testimony of Mr. Cloutier and Mr. Therriault, essentially thinking it would not be productive to do that when Mr. Fontaine will appear before us tomorrow and respond to some of those things. It would be a little more practical to do that after his testimony tomorrow.

I will go through the second draft and identify the areas where changes have been made. They begin at the bottom of page 2, and the staff has underlined the changes. The bottom paragraph on page 2 reads:

"Finally, Mr. Brandt quoted the last paragraph of the 1985 conflict-of-interest guidelines, which state: 'These guidelines are not exhaustive, nor could they, in reality, embrace all possible situations representing or suggesting a conflict of interest.'"

That is the first area. The next one is on page 4. The top of page 4 now reads, "After January 31, 1985, Mr. Fontaine discovered that he owned 20,000 shares of Wheeler Machine International Inc., which he has since sold."

Interjection: It should be 1986.

Mr. Chairman: Yes; 1986. Then, on the bottom part of that page:

"Mr. Fontaine concluded: 'If I was wrong (1) because I did not a year ago hire the team of lawyers that was necessary to unearth all the facts I put before the House on June 26 and this committee today, (2) because some of the advisers and lawyers I depended on may not have completely understood the nature of their tasks, so be it.'"

The other changes are on page 16. There is one change at the top, so that part now reads, "(The trust deed executed by Mr. Fontaine on December 23, 1985, does not cover these non-escrow shares.)" Then, in the next paragraph:

"Mr. Paul Martin testified that in conversation with Mr. Fontaine some time between May and December of 1985, Mr. Fontaine told him that the shares had to be sold by the end of December 1985. On November 10, a \$1.4-million underwriting took place."

Those are the changes in the second draft.

14:50

Mr. O'Connor: I agree that all of those changes are as we discussed yesterday, except for one, which is the last one we just dealt with. I understood we were going to indicate somewhere therein that Mr. Martin also told Mr. Fontaine to sell his shares. I think we discussed that he was simply photostating the questions and answers that he confirmed and gave to the reporter. That sentence does not indicate that Mr. Martin told him to sell the shares. It indicates that Mr. Fontaine told Mr. Martin the shares had to be sold by the end of December 1985.

Ms. Madisso: Do you want the reference to the newspaper article rather than to Mr. Fontaine's testimony in committee?

Mr. Eichmanis: Mr. Martin did not say that in committee.



Mr. O'Connor: Did not say what?

Mr. Eichmanis: That he told Mr. Fontaine to sell the shares.

Mr. O'Connor: Yes, he does, and he confirms that what he said to the newspaper reporter is correct.

Mr. Warner: It does not say that.

Ms. Madisso: We could not find it.

Mr. Warner: I thought he did. I was wrong. I hate to tell you what the problem is.

Mr. Chairman: Are you alleging there was ineptness on the part of the crown prosecutor?

Mr. Warner: One could--

Mr. Chairman: Mr. Warner was alleging the crown prosecutor was inept.

Mr. O'Connor: He probably was. He usually is.

Mr. Warner: I make it a practice not to attack lawyers. If you turn to the Hansard of the morning of Friday, September 12, the relevant portion is M-15, where Mr. O'Connor says: "Perhaps the last answer will help you. You said: 'Well, he figured it was going to go a lot higher.' I said, 'René, you are a minister. You have to sell it.'" That quote comes from the newspaper.

Mr. O'Connor: Yes.

Mr. Warner: You did not then ask the question directly to Mr. Martin, but instead placed a different question. The question you placed is the one Mr. Martin answered. He did not respond to the question which came out of the news article. I confess, before I reread this thing, I had assumed that Mr. Martin stated clearly that he had told Mr. Fontaine, "You are a minister. You have to sell." I could not find the quote.

Mr. O'Connor: M-14 is the place where, after having read to him what it was alleged he had said to the paper, he said, "I think that was the Globe and Mail." I said, "All right. Whatever paper it was, do you recall being asked those questions by a reporter and making those answers?" He said, "Probably, yeah." Question: "Probably, yeah?" "I think so." I took that as him affirming that he said that.

Mr. Warner: But you did not ask him the question directly.

Mr. O'Connor: I submit to you that I do not have to. He is now confirming to me that he has been asked those questions and made those answers.

Mr. Warner: He said, "I think so." I know the impression that was left. The impression Mr. Martin's testimony left with me was that he had conveyed to Mr. Fontaine that he was a minister and he had to sell the shares. When I read back over the Hansard, there are a few loopholes.

Mr. O'Connor: I took that as his confirming that he had been asked those questions and made those answers. If there is any doubt in anyone's mind, I suggest we listen to the tape.



Ms. Madisso: Perhaps I could suggest one earlier page, M-9. You ask the question, "Were you not in fact urging him to sell and as quickly as possible?" Mr. Martin answered, "Maybe not quite that way, but he told me he had until the end of December." I took these not to be an explicit affirmation of that.

Mr. O'Connor: Okay. But when you get back to the questions and answers put to him by the reporter, if those questions were put and if those answers were made, it is unequivocally clear that Martin was urging him to sell the shares, because the reporter quotes him as saying: "René, you are a minister. You have to sell." Therefore, the only question is, "Did you say that?" If he says, "I did say that," then there is evidence that he is making that--

Mr. Warner: He does not say, "I said that." He says, "I think so."

Mr. O'Connor: All right. If there is any question in anybody's mind, let us play the tape.

Mr. Warner: No, you cannot, but I--

That would prove whether the Hansard is accurate.

Mr. O'Connor: No; it would prove whether Mr. Martin said, "René, sell those shares."

Mr. Warner: If this is an accurate transcription of the tape, then he did not answer the question directly, mostly because the question was not placed directly. All of us had the opportunity; I am as much to blame. I should have asked him the question directly. You had a good set of questions. I was listening to Mr. Martin. My inference out of it was that Mr. Martin had told Mr. Fontaine, "You are a minister and you have got to sell," but when I read this over, that is not how it comes across.

Mr. O'Connor: The question at issue is whether he said: "René, you are a minister. You have got to sell those shares." That is what we are discussing, whether he urged the minister to sell those shares or not. If the question is whether he said that or not--that is, whether Martin said it to the reporter--the simple way to determine that is to play the tape.

I would submit that the Hansard answer, "I think so," is sufficient to prove he did say that and that he was admitting he had said it on a previous occasion. But if there is any doubt in anybody's mind, let us play the tape. We will do it by calling the reporter, who will say, "Yes, I had this conversation, and here is the tape I made of the conversation."

Mr. Warner: Oh, hold it. I thought you were referring to the Hansard tape. They tape this stuff and then they--

Mr. O'Connor: No; the tape of his saying it.

Mr. Warner: You meant from the reporter.

Mr. O'Connor: I offered to do that at the time if anybody had any doubt about the veracity of the transcription of that tape. It is there and available for us.

Ms. Hart: What has been overlooked is that Mr. O'Connor asked a

standard litany of questions that you ask in court when you are dealing with a previous statement: "Do you recall being asked these questions and giving these answers?" But he forgot to ask the standard third question, which is, "And were they true at the time?" You do not really care whether he said them to the reporter. What we care about is whether it was true, and nobody asked him that.

Mr. Chairman: There is some validity there. The difficulty I would be placed in in playing the tape is--and again we are into this difficulty that somebody read the newspaper story, somebody heard on a tape--it is fine for you to have that knowledge. You can use it in a committee and you can use it in the House. When it comes right down to it, when he was being interviewed by a reporter, he was not providing testimony to a parliamentary inquiry under oath, so that whether he said it, whether you have a tape, whether it is in the Sun--no matter what--the circumstances are different.

What we did do was to provide an occasion when the witness appeared and did testify under oath. You have his exact words recorded in Hansard. I suppose it is open to some interpretation, and you again are free to do that. I would not be very comfortable with playing the tape in the committee at this stage. Again, whether we did it now or did it that day or the year before, the same fact would remain true: that in granting an interview to a reporter for a newspaper, he was not providing testimony under oath, and that would be an inescapable fact. Therefore, you may have knowledge of the newspaper story and you may have your own personal copy of the tape recording of that interview, but the fact that would be pertinent would be that he is not testifying under oath, and he did do that here.

It seems to me that Mr. O'Connor is right and that it is relatively clear he certainly did not deny it. If there is a difference, he chose to use slightly different words when he testified before the committee than he did during the apparent interview. I do not think there is much doubt there.

Mr. Warner: I think my impression is accurate as to the flow of what was going on. I took out of that sequence that happened here that Mr. Martin, in fact, told Mr. Fontaine, "You have to sell this stuff."

15:00

The problem I have with it is that because it is not crystal-clear, I am not inclined to include it in the report. I do not like to have anything on paper that is ambiguous and I think there is some ambiguity in here, partly because I am as much to blame as anybody else. I should have asked the direct question and I did not. Because I did not, I did not get a direct answer. I did not ask a question that could be answered yes or no.

Mr. O'Connor: What is the direct question?

Mr. Warner: The direct question is, "Did you tell Mr. Fontaine: 'You are a minister; you have to sell those shares'?"

That is the question I should have asked and did not ask, him. It was implied but it was circuitous, because it was implied only through a quote excerpted from a news article.

Mr. O'Connor: I suggest it was unnecessary to ask it at that point, because he was confirming that he had said it previously. That draws it in under the sworn testimony. He is under oath here, he is being asked whether he



said something previously and he is confirming under oath that he did. That then makes it his evidence.

Mr. Warner: I guess that is why I am not a lawyer. I prefer to ask direct questions.

Mr. Chairman: I do not see that there is anything much more that we can do. You had the opportunity to ask the questions under oath. You did them, I take it, to your satisfaction. The perception of the answer is something that each member of the committee has equal rights to. You can draw conclusions from it. You can include the sworn testimony in the report. You can do whatever you want within that framework. Mr. O'Connor draws one conclusion from what he said. Mr. Warner is very close to the same perception of it. Others may not be. Do you want to include those quotes in the draft?

Mr. O'Connor: I thought we had agreed to do that yesterday?

Mr. Chairman: Is there any dissent?

Ms. Madisso: I did not realize we were talking about the newspaper article at all. I thought we were talking about Hansard. When I could not find the direct affirmation, I phrased it in this way, because the one thing Mr. Martin did frequently say was, "René told me he had to get rid of them by the end of December."

Mr. O'Connor: We had something of this discussion yesterday, and I thought the resolution to it was that, rather than draw a conclusion from those questions and answers, we would simply put them right in there as a fact as having been said.

Mr. Warner: Can we concentrate on the middle of page M-9. There are two quotes here that may be of some help.

Mr. O'Connor asked, "Did you discuss with him the problem he subsequently got into, that is, that he was holding shares in a mining company and, because he was minister, he had to sell them?"

Mr. Martin replied, "Yes, and he told me he had to sell them before the end of December."

The ambiguity of it is that "yes" can refer to, "Did you discuss with him," and it can also refer to telling him because he was a minister he had to sell. You have a two-part question. He has answered "Yes." We do not know to which part he has answered. However, the inference out of that is that he did both. That is one way to infer, from my understanding of the English language anyway. By affirming, he is affirming the two parts which go above, i.e., that the problem was discussed and, because he was minister, he had to sell.

Mr. Chairman: Is that the quote you want to include?

Mr. O'Connor: No. I want to include the excerpt from the interview, which I submit Mr. Martin has confirmed took place, and just leave that as is. It is a fact that those questions were asked and those answers were given and we can then judge as to the meaning of them from the surrounding evidence. I think that would be fairer.

Mr. Warner: The one on page 15, Terry, is even more ambiguous.



Mr. O'Connor: Yes, but the questions asked by Ganley and the answers given are not ambiguous.

Mr. Chairman: Okay. But the questions asked by Ganley, who is not a member of this committee, nor did he appear here, are not part of the record of the proceedings.

Mr. O'Connor: They are because the witness under oath said he said that. That is what brings it into the workings of this--

Mr. Warner: Where does he say that?

Mr. Chairman: If there is a part of this Hansard that you want included, I have no problem with that. You tell me what you want. It is in Hansard and we will--

Mr. O'Connor: It starts in the middle of page M-13, the bottom one third, where I say, "The questions I am suggesting were put to you and the answers you made are as follows..." and goes down to page M-14, where Mr. Martin says, "I think so." That is where I put to him the questions and answers. His answer to whether he said those was, "I think so." That is not as definite as yes. Then I offered somewhere, before or after, to play the tape to assist him with his recollection, but we never did that. Perhaps we should have.

Mr. Warner: I cannot recall.

Ms. Hart: The basic problem I have is that even if we allowed the whole tape in, unless we asked the witness specifically whether that was true at the time and whether it is still true, we would not have any evidence before us. All we would have would be that he said something to a reporter, not under oath, which may or may not have been true. We cannot assume, since he was not under oath, that it was true.

Mr. Warner: We do have a quote on page M-9, which is a question asked by a member and an answer given by the witness.

Ms. Hart: In a court. Put that in, but it does not mean anything. That is true; it does not mean anything.

Mr. O'Connor: There is one other quote that may assist us in determining what Martin's attitude was. At the bottom of page M-10 I asked him: "What was René's attitude upon your advising him he should sell the shares? Was he agreeable to do that or was he reluctant?" Answer: "He was reluctant because he was going to suffer a fairly good loss." That supports the version that Martin would have said, "Look, René, you are a minister; you have to sell," because he was reluctant to sell.

I am not suggesting anything about the truth or otherwise of the quote, but it is a fact that the questions were put to him and it is a fact that those answers were made. We can draw what conclusions we want, but I suggest that should go in the statement.

Mr. Chairman: The suggestion is that the excerpts from Hansard would be listed as the bottom of M-10, Mr. O'Connor's final question on that page and Mr. Martin's answer, "He was reluctant because he was going to suffer a fairly good loss." Also on M-13, the last question asked by Mr. O'Connor and over to M-14, where Mr. Martin says, "I think so." Is that the suggestion?

Mr. O'Connor: Yes.

Mr. Warner: If you are going to include all the ambiguous stuff, then I request that the quote I read in the middle of M-9, which is the question by Mr. O'Connor and the answer by Mr. Martin--

Mr. Chairman: "Did you discuss with him the problem?" Is that the quote?

Mr. Warner: Right.

Mr. Chairman: The answer is, "Yes, and he told me he had to sell them before the end of December."

Mr. Warner: To be quite candid about it, of all the material that comes out of that, the most useful item is that question you asked.

Mr. Chairman: The suggestion is to include three quotes, from M-9, the bottom of M-10 and beginning on M-13, "The questions I am suggesting were put to you and the answers you made are as follows," and over to M-14, where Mr. Martin says, "I think so."

Mr. Warner: Yes.

Mr. Chairman: Those are the excerpts from Hansard it is proposed should be included. Are there any objections to that? Is that agreeable?

Mr. O'Connor: That is agreeable.

Mr. Chairman: Then there is no editorial comment. The three excerpts from Hansard are included in the draft report.

Ms. Hart: I do not have difficulty with those three excerpts, but I was not here that day and I would like to make sure in my own mind that we are fairly representing what happened. I want to review that transcript again.

Mr. Chairman: Okay. The other thing that I suggest might assist us a little bit is that we not do votes on this matter today. We are trying to draft a consensus document here.

Mr. Morin: But we may want to add some of it.

Mr. Chairman: I am putting you on notice that at some time I expect we will get formal about it and put formal motions, at which time, if you want to exclude or include things, we will do so by means of a motion and a vote.

15:10

Mr. Morin: There is one thing I notice in this report, and it just strikes me now. We never at any time referred to the Baskerville-Spooner report, although they were two credible persons. One of them is a former member of your party, and well respected.

Mr. Martel: I would be suspicious--

Mr. Morin: I know Mr. Spooner; he is a highly respected person in the north and understands the north well. An investigation was conducted by them. We do not refer to it at all.

Mr. O'Connor: They concluded he did not know--

Mr. Morin: No, no. I am just asking. I am allowed to ask questions. Why do we not use that as a sort of reference?

Mr. Chairman: In what way--

Mr. Morin: To be fair.

Mr. Chairman: In what way do you want to make a reference to it?

Mr. Morin: When it comes time to make our recommendations, we should also look at the reports that were made by other people who are completely detached from this committee.

Mr. O'Connor: We cannot. We have no idea of the terms of reference. We have no idea what witnesses they interviewed, who they spoke to or what evidence they heard.

Mr. Martel: What worries me about this report, and I am not sure whether we raised it the day it was presented, is that they indicate the meetings and the dates but, for example, I do not know whether any of them saw the Therriault letters or notes.

Mr. Morin: Nobody asked.

Mr. Martel: No, because we did not--do you want more witnesses?

Mr. Morin: I did not ask. Nobody asked. I did not ask Therriault, and I forgot to ask Therriault; I could have asked him.

Mr. Martel: But I never thought to ask Therriault; none of that is listed here. They have listed in the appendix who they saw, when they met and so on. I am wondering--

Mr. Morin: Look at all this; there is a list of documents in the back.

Mr. Martel: That is what I am saying.

Mr. Warner: And you know what is missing?

Mr. Martel: The Therriault letters.

Mr. Warner: The four meetings that Mr. Fontaine forgot to tell us about.

Mr. Morin: I am just raising doubts, if you do not mind.

Mr. Martel: That is what worries me about this.

Mr. Morin: I ask questions.

Mr. Martel: Why do you not phone him?

Mr. Warner: The question has been answered.

Mr. Martel: Phone him this afternoon and ask him if he has brought his Therriault letters.



Mr. Warner: This thing is a joke.

Mr. Morin: There are many other questions I would like to ask, but I will reserve them.

Mr. Chairman: If you want to make some reference to that document, it is not out of order or anything, but I would need some guidance as to how you would do that and what you want to do with it. Like Mr. Sterling, if there are matters you want considered in the report at some point, you are quite free to put forward a motion to give us some direction on how to include those. I do not want to preclude any member from doing that. Is there anything else?

Mr. Warner: I am sorry, I say to my good colleague Mr. Morin. I should not have responded so quickly. I am not upset with him. Obviously, each member has the right to introduce whatever he or she thinks is important to the proceeding.

I responded the way I did because, quite frankly, I was affronted at the time I received this and went through it. To be honest about it, it would demean what we are trying to do to include it. It is a pretty feeble attempt to exonerate and it is not worthy--

Mr. Morin: You do not know that. We do not know whether it is a feeble attempt.

Mr. Chairman: There might be some resistance--

Mr. Morin: We can pursue it. As I said, I do not know. I do not--

Mr. Warner: It purports to be a study, but the study does not include any of the four meetings which Mr. Fontaine held and which we later became aware of; and then the conclusion is drawn that he played a minimal role in the development of the Hearst FMA.

Mr. Morin: I do not want to speculate on--no, I should not say that.

Mr. Warner: If you want to place it in, put a motion--

Mr. Morin: No, no. But it should be a piece of evidence; it should be an item that is referred to.

Mr. Chairman: Okay. Is there any further business you want to conduct this afternoon? We have gone through the draft as much as we can. I think it would assist us a little bit in the process if we withheld any motions until after Mr. Fontaine has been given his opportunity to appear. I am not anticipating great changes to occur in the draft to date, but the draft is incomplete and we will complete that next week.

That brings me to the next wonderful topic. I cannot tell you when the committee will sit next week. So far we have Monday cleared with everybody. After that, we are awaiting deliberations by august people such as whips and House leaders as to whether anything else can transpire next week. That will have to await their decisions. Later today or tomorrow, I hope, we may have something else on that.

Unless anyone has any further business, we will adjourn until two tomorrow afternoon, when the witness will be Mr. Fontaine.

The committee adjourned at 3:15 p.m.









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